the imposition of economic sanctions against countries like South Africa, Rhodesia, and other anti-Communist nations, but where are they in the Iranian affair? Why is not the Carter administration demanding U.N. action against Iran? Where are all those who cry out against alleged human rights violations in South Korea, Taiwan, South Africa, Chile, Nicaraugua, and Rhodesia? I would think, Mr. Speaker, that for all the money that the U.S. taxpayers have pumped into the United Nations and given in foreign aid that we could get a little help in return. Maybe its high time for us to seriously reexamine the value of the United Nations. The least we could do is demand that all of these international organizations put maximum pressure on Iran—the same kind that they like to put on the anti-Communist Third World nations—to release the hostages or else lose all U.S. assistance immediately.

If this kind of thing is to be prevented in the future it is imperative that we all face up to the real cause and make the determination to correct our policy mistakes at once. The Carter administration and our congressional leaders responsible for foreign policy must stop dawdling and institute programs to strengthen all facets of our national defense posture. They must put an end to U.S. timidity and let it be known that the United States knows what her interests are and is willing to defend them. Otherwise, we will become more and more vulnerable to political and economic blackmail, backed by superior military force, with the constant threat of a major interruption of our oil supply from the Middle East as well as disruptions in other areas of vital interest.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 20, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes on Wednesday, November 14, 1979. Had I been present, I would have voted the following:

Rollcall No. 664, "no."

Rollcall No. 665, "yes." ●

HOUSE OF REPRESENTATIVES—*Monday, November 26, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, we come before You this day in the quiet of the moment to ask Your blessing upon Your people. There are about us the urgent matters that cry for attention, the problems demanding resolution, the personal cares that weigh on the spirit. But You have promised, O Lord, to be with us to the end of the world, to sustain us with Your strength, and support us with Your love. Be to us and all people a focus for reconciliation and peace in our lives and in the world that we might do for others those good deeds we would have them do to us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 3824) entitled "An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. EAGLETON, Mr. LEVIN, Mr. RIBICOFF, Mr. MATHIAS, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2009. An act to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes.

KENTUCKIANS ARE FURIOUS ABOUT AMERICANS BEING HELD HOSTAGE IN IRAN

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, most of the Members of Congress return to the House of Representatives today after a week of activity in our districts. I believe we sensed back home a unanimity of opinion among our constituents regarding the crisis in Iran.

I assure you that Kentuckians' outrage against Iran and the Ayatollah Khomeini is unprecedented since World War II.

Iran's seizure of American hostages and the continued holding of 49 Americans in our own Embassy in Tehran violates every norm of civilized behavior and international law.

There is a price to be paid for confronting tyranny and resisting despotism. The cost for not doing so in the long run is far greater. Consider last week's burning of our Embassy in Islamabad, Pakistan.

Yes, it appears to me that American people are ready now for whatever it takes to let the terrorists around the world who despise this country know that America is still a great power which is unwilling to accept any more uncontested humiliations and defeats.

DEATH OF JUDGE HAROLD LEVENTHAL GREAT LOSS TO NATION

(Mr. BARNES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BARNES. Mr. Speaker, a truly remarkable individual left this world during the past few days, and I believe it is appropriate that we in the Congress pause to reflect upon the contributions of one of the greatest and most learned jurists of our time. I refer, of course, to Judge Harold Leventhal of the U.S. Court of Appeals for the District of Columbia.

I had the rare privilege of knowing Judge Leventhal personally throughout my entire life. A close friend of my family, he helped to guide me—as he guided so many young people, particularly his outstanding law clerks—into a life of public service.

As I said just the week before last, when I joined in welcoming Judge Leventhal as a witness before the Subcommittee on Administrative Law and Governmental Relations of the Judiciary Committee, there is literally no person in the world for whom I have more respect and admiration.

The death of Judge Leventhal is, of course, a great personal loss for me, for my family, and for everyone who has been fortunate enough to know this brilliant, witty, warm man as a friend. But it is also a tremendous loss for the law and for our Nation which he served with such wisdom.

I call to the attention of my colleagues an editorial with respect to the life and contributions of Judge Leventhal which appeared in the Washington Post on Thursday, November 22, 1979:

HAROLD LEVENTHAL

When President Johnson appointed Harold Leventhal to the U.S. Court of Appeals for the District of Columbia in 1965, we wrote that this intelligent and prolific attorney "will bring learning, sensibility and a richly reflective mind to the bench." That was quite a tall order, but Judge Leventhal, who died here Tuesday at the age of 64, delivered in full. Not only did he exercise his exceptional talents vigorously, he also coupled his leadership with a deep concern for individual civil liberties and rights.

Judge Leventhal's varied interests and abil-

ities suited this court perfectly, since it was developing a record as a highly visible, often controversial and far-reaching appellate bench. As a productive contributor who usually was aligned with the more open and legally tolerant wing of this "liberal" court, Judge Leventhal wrote widely on numerous topics, from administrative law—one of several specialties—to immigration policies, libel, criminal law and human rights. His scholarly essays and opinions explored and expanded the law—thoughtfully sharpening definitions of constitutional protections. They included ordering free trial transcripts for indigent defendants, help for businesses uprooted by urban renewal, speedy trials, an end to tax exemptions for racially segregated private schools and sharp curbs on police search and seizure powers and on abuses in the handling of anti-war demonstrators.

These decisions were more than the philosophizing of a brilliant legal mind—they were the expressions of a warm and witty man with a down-to-earth feeling for people as individuals, as neighbors and as citizens of a democracy. It was these qualities that made Harold Leventhal such a special person and superior judge.

LET THE NATION'S CHURCH BELLS RING FOR OUR HOSTAGES IN IRAN

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, the church bells rang all over America this Sunday to call the Nation to prayer and contemplation for the safety of our hostages in Iran, and I hope they will continue to ring daily at noon until all the hostages are released.

The request for the bellringing came from a personal friend of mine, Bruce Laingen, the American charge d'affaires in Tehran and the senior American official held hostage there. Ambassador Laingen said this in a Thanksgiving message to the American people:

In our prayers of thanks for the safe return of the first of the hostages, of hope for the early release of those who remain, and for strength in standing firm for what we believe is right, let us also pray that a process can begin that will ultimately permit the restoration of the traditional friendship between the American and the Iranian peoples. Let us ask God's guidance that the two countries, in all they do and say, will act on that basis and from a posture of humanity and restraint, so that both our peoples and governments can again look to a future of restored understanding and cooperation.

Let the Nation's church bells ring with that message and that hope.

Those church bells did ring, thanks to the efforts of several families of hostages; the use of the good offices of several Members of Congress, including the offices of: Senator WILLIAM ARMSTRONG, of Colorado; Congressman BEN GILMAN, of New York; Congressman TOM LOEFFLER, of Texas; Congressman DICK ICHORD, of Missouri; Congressman JOHN ASHBROOK, of Ohio; Congressman CARLOS MOORHEAD, of California; Congressman DAN MARRIOTT, of Utah; Congressman HENRY HYDE, of Illinois; and my own; and with the help of volunteers from several religious congregations in Washington led by Mrs. Helen Chapin, a former secretary on Capitol Hill.

Let us hope that bells and community services will continue to sound each day at noon as long as our hostages are held in Iran to call Americans to remember our hostages and to pray for them and for a peaceful resolution of that dreadful situation.

REPRESENTATIVE CARNEY WILL PAY TRIBUTE TO CORPORAL CROWLEY AND WARRANT OFFICER ELLIS

(Mr. CARNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNEY. Mr. Speaker, the insane behavior of the Ayatollah Khomeini which has spurred mass hysteria and bloodshed throughout the Islamic world has finally reached the shore of the United States. On November 21, 1979, our Embassy in Islamabad, Pakistan was attacked by a crazed angry mob spurred on by the insane behavior of the Ayatollah Khomeini. This action caused the loss of the lives of Marine Cpl. Stephen Crowley of the First Congressional District of New York and Army Warrant Officer Bryan Ellis.

This afternoon I requested a special order to pay tribute to Corporal Crowley and Warrant Officer Ellis.

In addition I ask my colleagues to join with me in this special order calling upon all Americans to act in a unified voice supporting the President in his courageous attempts to resolve this issue.

Mr. Speaker, at the end of all special orders previously entered into for today I ask unanimous consent that I may be permitted to address the House for 30 minutes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

U.N. DEBATE ON IRAN

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, United Nations Secretary General Kurt Waldheim, has called a meeting of the U.N. Security Council today to discuss the Iranian Government's takeover of our Embassy and holding American citizens as hostages.

At the very outset our Government has got to make it clear to the U.N. that the release of the hostages cannot be a subject of debate.

If the U.N. does anything other than condemn Iran for violations of the most sacred and essential relationship in international affairs, grave damage will be done to the very foundations of international relations.

Whatever Iran's Foreign Minister might want to say about the Shah, it must be isolated from the primary concern, release of the hostages. There can be no linkage between the two issues. Each nation must understand that the Americans being held hostage represent all nations and their rights.

The position of the United States should be that this is not an issue between our country and the Iranian kidnapers, but between the kidnapers and the civilized world.

The United States has shed the blood of its youth, given billions of dollars and incalculable technological aid to almost every nation on Earth. It is time these nations did something for us, and for themselves as well. First, condemn the Iranian seizure. Then, possibly, the other issues can be debated.

□ 1210

THE LATE HONORABLE CHARLES E. POTTER AND THE LATE HONORABLE BILLIE S. FARNUM

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, the State of Michigan has been deprived of two of its distinguished citizens in recent days with the deaths of former Senator Charles E. Potter and former Congressman Billie S. Farnum.

I had the pleasure of serving in the House with both men. They were able and dedicated public servants and good friends.

Senator Potter, who died Friday at Walter Reed Hospital, was first elected to Congress in 1947 to fill an unexpired term in the 11th District. In 1952, he was elected to fill the unexpired term of the late Senator Arthur H. Vandenberg of Michigan. He continued in the Senate until 1958. Wounded three times in World War II, Senator Potter lost both legs after stepping on a German landmine.

Congressman Farnum, who died last week in Lansing, Mich., served in the House of Representatives in 1965 and 1966. He represented the 19th Congressional District of Michigan, the district which I now represent.

After leaving Washington, he served as Michigan's last elected auditor and was deputy chairman of the Democratic National Committee. In 1975, he was elected Secretary of the Michigan State Senate, a position he held at his death.

GENERAL LEAVE

Mr. BROOMFIELD. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the life, character, and public service of the late Honorable Charles E. Potter and the late Honorable Billie S. Farnum.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONGRESS MUST RECOGNIZE IMPORTANCE OF ENERGY CONSERVATION

(Mr. CONTE asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the recent events in Iran threaten the world economy with another oil squeeze and another round of petroleum price increases.

In addition, we all know the OPEC ministers are preparing for a series of closed-door discussions in December regarding price hikes of their most precious natural resource—crude oil.

An article in today's Washington Post entitled "Oil Supply Hinges on Saudi Reaction" clearly indicates the extent to which this country is dependent upon the whims of these oil barons. The country from which we import the greatest amount of oil and an ally of this Nation for years, Saudi Arabia, has let it be known in recent months that no longer will it continue to support our craving for crude oil. Presently, Saudi Arabia is pumping some 9.5 million barrels per day and is expected to reduce that amount to 8.5 million.

Mr. Speaker, with the events unfolding in the Middle East as they have, Congress must realize the growing importance of energy conservation measures, development of alternate sources of energy such as synthetic fuels, solar, wind, hydroelectric, and increased domestic production of crude oil.

We cannot sit by and watch the OPEC countries wield their black gold, blackmail weapon against the industrialized and Third World nations. We must pass a strong windfall profits bill before the end of this year, in order to fund these other energy programs.

DUTY SUSPENSION ON CONCENTRATE OF POPPY STRAW

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am today introducing a bill to extend for 2 years the duty suspension on imported concentrate of poppy straw, which expires on June 30, 1980.

This extension is necessary because the United States is totally dependent on imported concentrate of poppy straw, which is a raw material used in the production of medicinal codeine and morphine.

It is also a material whose importation and processing into medicine is strictly regulated by the Justice Department due to the Controlled Substances Act.

While the worldwide opium shortage which forced domestic producers to switch from opium to concentrate has somewhat eased, poppy straw concentrate remains a vital ingredient in the production of certain prescription drugs.

As a result of the current duty suspension, production costs have been reduced and prescription drugs containing codeine and morphine are less expensive for consumers.

Rarely do we have an opportunity to pass legislation that has no adverse effect on any U.S. interests and offers real potential savings to those Americans in need of medical care.

I urge the adoption of this much-needed legislation.

CIVIL SERVICE AUTHORIZATION ACT

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I note with some interest the leadership has scrapped its plans to call up H.R. 5138, the civil service authorization bill, under suspension of the rules today.

While the landmark Civil Service Reform Act of 1978 has been in full force less than 1 year, the same opponents who tried to torpedo the legislation in committee now are working to undercut it. It is an accepted fact that the toughest part of the fight for civil service reform was to get it out of committee, where it was opposed by a substantial part of the majority. It was opposition generated by pressure from the Federal employee unions. Obviously, the same coalition still is intent on strangling the 1978 act.

H.R. 5138 represents a major policy revision of the reform package which won an overwhelming vote of support in this body last year. In place of the unexpiring authorization of funds for the Office of Personnel Management, the Merit Systems Protection Board, the Federal Labor Relations Authority, and the Office of Special Counsel this legislation imposes a 2-year authorization at fixed levels of funding.

Politically, the bill appears to be motivated for the purpose of superimposing committee policy on the administrative functions of these four agencies. By putting these agencies on a short rein, the temptation will exist to supplant executive management decisions with those determined by a handful of committee members. I think legislative oversight is a proper and valuable tool of the legislative process, but we also need to be fair in allowing these fledgling agencies to perform as the Civil Service Reform Act intends them to perform. It is far too early for the type of tinkering this legislation would encourage.

Finally, in a practical sense, the legislation is premature. With the enactment of the Reform Act in October 1978, the Congress made a deliberate decision to provide unexpiring authorization of funds necessary for the administration of that act. Implementation of the comprehensive reform package requires time, and the respective agencies must be allowed some flexibility.

The committee report on this bill admits that expiring authorization is in fact sunset legislation. If the agencies created by the Civil Service Reform Act were suitable to the sunset theory, than that determination should have been made last year. It was not.

The Government-wide functions of the Office of Personnel Management, as well as the other three agencies covered by this bill, do not lend themselves to abrupt abolishment, which would be the case under this bill if no further authorization follows.

No valid argument has been made in support of this legislation. In the obvious absence of need or logic, the bill should be defeated.

THE "COUNTDOWN TO HUMAN RIGHTS DAY" VIGIL FOR CAMBODIA

(Mr. MAGUIRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. MAGUIRE. Mr. Speaker, there are 10 legislative days before December 10 which happens to be the day for the worldwide celebration of Human Rights. I invite my colleagues to join me in a special order of the House on December 10 for a colloquium to honor the universal rights of man and to discuss the situations in those regions of the world where these rights are sadly lacking.

Even without the hunger induced genocide occurring right now in Southeast Asia, that terror camp called Kampuchea would be a prime example of a nation which deprives its citizens of the blessings of freedom. But we know that of the 4.7 million people who still exist in that war torn country, 3 million people, 3 million, are in dire danger of starvation and death, 200,000 souls are perishing each month. These individuals cannot wait for Human Rights Day. We must translate our anguish and urgent desire to save the Cambodians into swift congressional action.

Thus, for the next 10 days a number of Representatives will take the floor to discuss the progress of our efforts to stop the starvation in Cambodia. We will monitor the status of the administration's relief efforts to see that the moneys appropriated for hunger are being dispensed with order and the sense of urgency that this mission requires. We must and will take whatever measures we can to see that the hungry are fed.

As the great moral philosopher Reinhold Niebur said:

> Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary.

The role of the U.S. Congress in this battle is clearly defined. Through the passage of legislation like the Refugee and Migration Assistance Act of 1979, we will mobilize the resources of our democracy to feed the hungry. Through the colloquium on Human Rights Day and the speeches on the starvation in Southeast Asia which will precede it, we will remind the world of the shelter democracy affords to all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of,

the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, November 27, 1979.

CREDITING OF CERTAIN FULL-TIME TRAINING DUTY OF MEMBERS OF THE NATIONAL GUARD

Mr. WHITE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5753) to amend title 10, United States Code, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for the purpose of laws providing benefits for members of the National Guard and their dependents and beneficiaries, as amended.

The Clerk read as follows:

H.R. 5753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 3686(2) and 8686(2) of title 10, United States Code, are amended by striking out "sections 316 and 503–505 of title 32" and inserting in lieu thereof "sections 316 and 502 through 505 of title 32".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to full-time training or other full-time duty performed under section 502 of title 32, United States Code, after the date of the enactment of this Act.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. WHITE) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. DICKINSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5753, as amended is a clean bill reported by the Committee on Armed Services that corrects some technical deficiencies in H.R. 1425, the bill that was originally considered, and establishes the date of enactment as the effective date. The amendments to H.R. 5753 are further technical amendments to correct printer errors.

H.R. 5753 will make National Guardsmen who are called to active duty for full-time training duty under section 502 of title 32, United States Code, eligible for the same benefits provided other National Guardsmen or reservists for similar duties.

Currently, National Guardsmen who are called to active duty for a period of time under section 502 of title 32, United States Code, are not entitled to dependent medical care for this period, or credit for purposes of retirement upon the completion of 20 years of active duty. This is an anomaly because National Guardsmen who are called to active duty under sections 503 through 505 of title 32, which relate to annual field training and attendance at military schools, are entitled to these benefits for such service, as are reservists in general who are called to active duty.

The House approved identical legislation during the 90th Congress, but it was never acted upon by the Senate.

Partly at the urging of the Congress, the Department of Defense is currently increasing the number of full-time support personnel for the National Guard and Reserve on a test basis. This is an important step that promises to substantially improve training and readiness in these components. To continue the program on other than the current test basis, section 502 of title 32 must be used as it is the proper authority for calling National Guardsmen to full-time duty. H.R. 5753 will eliminate an inequity in the treatment of National Guardsmen called to active duty for 2 years to support training.

The Department of Defense supports this legislation. The costs are estimated to be $6.4 million in the first year and rise to $19.3 million by the fifth year.

On behalf of the Committee on Armed Services, I urge the passage of H.R. 5753, as amended.

□ 1220

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill, H.R. 5753. There is absolutely no opposition to it that I am aware of. Both the administration and the Department of Defense support it and it was reported by the committee unanimously. Its purpose is to correct an oversight or inadvertence in the law. This legislation changes one section of existing law to give National Guard called to active duty under that section the same benefits Army reservists and other guardsmen have when they are on active duty. It makes sense; there is no opposition to it. I urge its passage.

Mr. Speaker, I also rise in support of H.R. 5753 which will correct an inequity in the law which affects guardsmen who are called to active duty for the purpose of providing full-time support for training.

As the chairman has indicated, all other National Guardsmen, when called to active duty for any other purpose, receive the normal Federal benefits of this service, such as medical care for dependents and retirement credit. The fact that guardsmen who are called pursuant to section 502 do not is evidence only of an arbitrary inconsistency in the law and not a conscious decision on the part of the Congress.

It is important that legislation be enacted soon because there will be an increasing number of guardsmen on active duty in the near future, as this appears to be one significant way of improving the training and readiness in the National Guard.

Mr. Speaker, this legislation only entitles National Guardsmen called pursuant to this section to the same benefits that reservists and other guardsmen receive when called to active duty.

This bill should receive favorable consideration by the House.

Mr. Speaker, I yield back the remainder of my time.

● Mr. MONTGOMERY. Mr. Speaker, the House has before it today H.R. 5753 which is a bill that Mrs. HOLT and I introduced, and I appreciate this opportunity to make this statement in support of the measure. The bill amends title 10 of the United States Code to provide that certain full time training duty of members of the National Guard shall be considered as active duty for training in Federal service. The purpose of this amendment is to provide the same benefits for members of the National Guard in full-time training duty that is provided members of the Army and Air Force Reserve for similar duty.

The problem we are correcting with this bill is a statutory oversight. Army and Air Force Reserves serve under the authority of title 10 of the United States Code and their functions and benefits are spelled out in the language of this statute. Likewise, title 32 is the authority for the National Guard. When first written, the functions of these two services were different as were their benefits. Through the years, the National Guard has taken on more Federal duties, and as they have done so, corrective actions have been necessary to equalize the benefits for these Federal duties. In enacting section 714 of the Armed Forces Reserve Act of 1952, which is now codified in sections 3686 and 8686 of title 10, it is clear that the Congress intended to insure that National Guardsmen performing inactive duty training or full-time training duty under title 32 would receive the same military benefits for that duty as members of the Army and Air Force Reserve for the similar title 10 duty. However, in equating full-time duty under sections 316 and 503–505 of title 32 with title 10 active duty for training, we overlooked the fact that section 502 also contained authority for full-time duty. Therefore, persons serving under section 502 are not now eligible for the same benefits as those serving under other sections of title 32 and title 10.

Congress has mandated a test program for conversion of technicians employed by the Army and Air Reserves and National Guard to active military status. Without the language in this bill, there appears to be no authority for providing medical care for dependents of Guard members on full-time duty under 502(f) for periods of more than 30 days, nor to credit that duty toward retirement for length of service. Since the test program for the technician conversion program will be completed and a decision will likely be made during the fiscal year, there is an urgent need for enactment of this legislation during this legislative year.

I am certain we all agree that persons serving similar military duties should be eligible for the same benefits. Congress has acted to correct some of the omissions due to the statutory oversight. Just this year we passed H.R. 5288 correcting a similar problem relating to reemployment rights. Enactment of H.R. 5753 will complete the correction of the omissions

in all pertinent statutes, and I urge my colleagues to support this action.

Thank you.●

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WHITE. Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. WHITE) that the House suspend the rules and pass the bill H.R. 5753, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS FOR MILITARY JUNIOR COLLEGES

Mr. WHITE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5766) to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes.

The Clerk read as follows:

H.R. 5766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2107 of title 10, United States Code, is amended—

(1) by inserting "and" at the end of clause (4) of subsection (b);

(2) by striking out clauses (5) and (6) of subsection (b) and inserting in lieu thereof the following:

"(5) either—

"(A) agree in writing that he will—

"(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that, if he is commissioned as a regular officer and his regular commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, in the reserve component of that armed force and not resign before that anniversary; and

"(ii) serve on active duty for four or more years; or

"(B) agree in writing that he will—

"(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and

"(ii) serve in a reserve component of that armed force until the eighth anniversary of the receipt of such appointment, unless otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as shall be prescribed by the Secretary of the military department concerned.

The performance of service under clause (5) (B) may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed."; and

(3) by striking out "6,500" the first place it appears in subsection (h) and inserting in lieu thereof "$12,000".

SEC. 2. (a) Title 10, United States Code, is amended by inserting after section 2107 the following new section:

"§ 2107a. Financial assistance program for specially selected members: military junior colleges

"(a)(1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is a student at a military junior college and who will be under 25 years of age on June 30 of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army.

"(2) To be considered a military junior college for the purposes of this section, a school must be a civilian post-secondary educational institution essentially military in nature that does not confer baccalaureate degrees and that meets such other requirements as the Secretary of the Army may prescribe.

"(b) To be eligible for appointment as a cadet under this section, a member of the program must—

"(1) be a citizen of the United States;

"(2) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

"(3) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

"(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

"(5) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

"(6) agree in writing that he will serve in such reserve component for not less than eight years.

Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

"(c) The Secretary of the Army shall provide for the payment of all expenses of the Department of the Army in administering the financial assistance program under this section, including the cost of tuition, fees, books, and laboratory expenses which are incurred by members of the program appointed as cadets under this section while such members are students at a miliary junior college.

"(d) Upon satisfactorily completing the academic and military requirements of the program, a cadet may be appointed as a reserve officer in the Army in the grade of second lieutenant, even though he is under 21 years of age.

"(e) The date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets from the United States Military Academy in that year. The Secretary of the Army shall establish the date of rank of all other officers appointed under this section.

"(f) A cadet who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the Army to serve in his enlisted grade for such period of time as the Secretary prescribes but not for more than four years.

"(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service.

"(h)(1) The Secretary of the Army shall appoint not less than 10 cadets under this section each year at each military junior college at which there are not less than 10 members of the program eligible under subsection (b) for such an appointment. At any military college at which in any year there are fewer than 10 such members, the Secretary shall appoint each such member as a cadet under this section.

"(2) If the level of participation in the program at any military junior college meets criteria for such participation established by the Secretary of the Army by regulation, the Secretary shall appoint additional cadets under this section from among members of the program at such military junior college who are eligible under subsection (b) for such an appointment.

"(i) Cadets appointed under this section are in addition to the number appointed under section 2107 of this title.".

(b) The table of sections at the beginning of chapter 103 of such title is amended by inserting after the item relating to section 2107 the following new item:

"2107a. Financial assistance for specially selected members: military junior colleges.".

SEC. 3. Section 2108(d) of title 10, United States Code, is amended by striking out the second sentence thereof and inserting in lieu thereof the following: "If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member's obligated period of service in a reserve component until the member has completed such course of study.".

SEC. 4. The amendments made by this Act shall take effect on October 1, 1980.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. WHITE) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. DICKINSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5766 is a clean bill that increases the number of scholarships authorized for the Army Reserve Officers' Training Corps (ROTC) program, provides an individual who accepts such a scholarship the option to serve in a Reserve component for 8 years in

addition to the current requirement of serving on active duty for 4 or more years, and establishes a financial assistance program for certain cadets at military junior colleges.

As all the Members know, the ROTC program is the single most important source of officers in each of the services. In general, ROTC scholarships have been utilized only to provide active component officers. Today, however, the Army Reserve and Army National Guard are in excess of 4,000 below their requirements for officers in the junior grades. This legislation will provide authority for a total of 12,000 ROTC scholarships for the Army instead of the 6,500 now authorized and will permit individuals who receive these scholarships the option of joining the Reserve components. The Army, unlike the Navy and Air Force, is being constrained by the ceiling on the number of ROTC scholarships because of the large Reserve component requirements and now desires to make greater use of this program to assist the Reserve components.

Another aspect of this bill relates to military junior colleges which—the Members may know—are six schools that meet specific criteria established by the Secretary of the Army and are essentially military in nature. H.R. 5766 will establish in law a financial assistance program for specially selected students at these military junior colleges. Ten scholarships per year will be provided for each of the six schools. The Secretary will select cadets for these schools and can provide additional scholarships if the level of participation in ROTC at the schools increases. The military junior colleges have been providing officers for the military for a number of years. Earmarking these scholarships will strengthen the program at each of the schools.

Mr. Speaker, the Department of the Army testified in support of this legislation, although a formal position from the administration has not yet been received. The cost of the legislation will be about $1.2 million in the first year and will rise to $7.6 million by the fifth year.

Mr. Speaker, I urge the passage of H.R. 5766.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. While I do not serve on this particular subcommittee, I am on the full committee and am familiar with it. I would say that we have heard a great deal of conversation and read a great deal about whether or not the All-Volunteer Army works and whether or not we should go back to registration and ultimately to the draft. I would say I do not favor going back to the draft at the present time, and I do favor registration at the present time, but we have already acted on this. This is simply a device or a remedy to get more people through voluntary means to come into the armed services or to be ready for service within the military. It increases by 4,000 slots the number of military. It also has a very real impact on 6 junior colleges throughout the country, and it makes available to them 10 scholarships per junior college. I think it is a good idea. There is no opposition to it, and I would certainly urge the House to support it.

Mr. Speaker, I rise in support of H.R. 5766, legislation to provide the Army more Reserve Officers' Training Corps scholarships and to designate some of these scholarships for military junior colleges.

I am a member of the Committee on Armed Services but I am substituting for the ranking minority member of the Military Personnel Subcommittee who is unable to be present today.

Mr. Speaker, we have heard a great deal in the past several months about major deficiencies in the reserves. One specific deficiency that has not received a great deal of attention is the shortage of junior officers—now in excess of 4,000—for the Army Reserve and Army National Guard. The additional scholarships provided by this legislation are to be used solely for this problem in the reserve components. Further, 60 of these scholarships will be provided to the six military junior colleges in the Nation to strengthen their programs which can be an important source of new officers for the Reserve Components.

Mr. Speaker, if this country intends to maintain an effective all-volunteer military, programs such as this will be necessary to provide the required personnel.

I urge passage of H.R. 5766.

Mr. Speaker, at this time I yield such time as he may require to my good friend, the gentleman from Pennsylvania (Mr. SCHULZE).

Mr. SCHULZE. Mr. Speaker, in the next several days, the Senate of the United States is scheduled to begin its deliberations on the strategic arms limitation agreement. This debate will be one of the most important of this century for it will provide guidelines for the future development of our strategic military capabilities. As important as this subject may be, it should not, however, overshadow the demands and needs of our conventional forces.

Today, the backbone of those conventional forces is our National Reserve and National Guard units, while the House of Representatives has failed to recognize that a severe shortage of manpower does exist and has opted not to reinstate military registration, the fact remains that our Nation's Reserve Forces are inadequate. Shocking statistics indicate that our Reserve Forces are an estimated 500,000 men short of personnel requirements. This anemic condition of our backup forces seriously diminishes our ability to effectively mobilize in the defense of our Nation.

Mr. Speaker, we have before us a bill, H.R. 5766, which would increase the overall number of general ROTC scholarships from 6,500 to 12,000 and would permit the appointment of 60 cadets per year, 10 per military junior college, to receive scholarships.

Obviously this proposal will not alleviate all the problems in assuring an adequate manpower for our Armed Forces. It will, however, make a significant contribution to the longstanding security interests of our Nation. By increasing the total number of scholarships from 6,500 to 12,000, this bill will provide an equivalent number of commissioned officers. Their obligation, in accepting a scholarship, will be to serve for at least 8 years in the Army Reserve or National Guard.

In addition, these scholarships will greatly expedite the training of badly needed Reserve recruits. Both the military junior colleges and ROTC programs produce a highly qualified officer who is motivated, disciplined, and well attuned to the demands of military life. Well trained officers are an important component of any army; they are essential to one that is undermanned.

I would like to make a special point in regard to military junior colleges. I am proud to say that one of the six existing colleges of this kind is located in my district at Valley Forge, Pa. The name of this college, taken from its location, conjures up images of our struggle to become a nation of freedom, dignity, and justice. In order to achieve these goals our country had to show unparalleled bravery in the face of military confrontation. It was a courage that could only be inspired by incredibly competent leaders who understood the demands of this life and death struggle.

In order to preserve those freedoms, that were won by the unyielding courage of our forefathers, we must provide our Nation today with similar leadership; leadership that can inspire the resolution and fortitude necessary to win a modern confrontation.

As I have mentioned, the military junior colleges of our Nation produce competent and courageous individuals, the type of officer proud to serve in the military tradition of our Nation as signified by Valley Forge. These colleges are one of the most effective methods of military training available. Yet, there are no scholarships dedicated to the military junior colleges. This is a grave oversight, especially in light of the quality of officers produced by these schools.

Mr. Speaker, I urge the adoption of H.R. 5766, as a first step toward eliminating the anemic conditions plaguing our military forces. While this bill will not satisfy all of our current Reserve needs, it will help shore up our Reserve units, bolster our Armed Forces, and ultimately enhance the security of our Nation. The bill is worthy of your support.

Mr. WHITE. Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I rise in support of H.R. 5766 which I introduced with 45 of our colleagues as cosponsors. This legislation authorizes additional ROTC scholarships for the Army, establishes an ROTC scholarship program for cadets attending military junior colleges and provides that cadets awarded these scholarships may serve their obligated period of time in the Army Reserve or Army National Guard.

Mr. Speaker, the Army Reserve and Army National Guard are vital to our national security. They are the sole available source of trained units to augment the active Army units in the event of mobilization. Yet, the Army Reserve and Army National Guard are currently

short more than 4,000 junior officers. This shortfall in leadership personnel is so serious that it threatens our ability to effectively mobilize in defense of our Nation.

Mr. Speaker, the vote on the registration provision in the Defense authorization bill, which took place in the House on September 12, clearly indicates that the majority of the Members of the House are committed to the All-Volunteer Force for the foreseeable future. Therefore we must meet our personnel needs within that framework.

Mr. Speaker, to meet our personnel needs in an All-Volunteer Force, we must upgrade the incentive program. The ROTC scholarship program has been the Army's single most attractive incentive for generating interest in military service among high-quality students. It is a good deal for all concerned: a student is provided with tuition, fees, books, laboratory expenses, and $100 per month for personal expenses while obtaining an education. In return, the Army receives a well-educated, well-trained young officer.

However, under current ceilings only 10 percent of Army ROTC students are on scholarship. This bill would expand the ROTC program so that it might better help meet officer personnel requirements. Moreover, by providing the option of service in the Reserves or National Guard immediately upon successful completion of the program, the bill would provide officers to the area of the greatest need.

Our Nation's six military junior colleges are unique educational institutions which have been turning out superior officers for the military for an average of 109 years. Because of their total military environment and the intensive 2 years of military training offered, they are the only schools authorized to commission a person at the end of the sophomore year. However, these schools have not been able to take full advantage of the ROTC scholarship program because they have not been able to offer scholarships to the students directly out of high school. H.R. 5766 puts the military junior colleges on an equal basis with 4-year colleges by providing ROTC scholarships for 10 cadets each year at each military junior college. This program would enable us to better utilize the ability of these schools to produce highly qualified, highly motivated junior officers for our Reserves and National Guard.

Mr. Speaker, the adoption of H.R. 5766 would be a positive step in assuring that our Nation can meet its needs for junior officers in the Army Reserve and the Army National Guard within the framework of an All-Volunteer Force. I urge all of my colleagues to vote to suspend the rules and to pass H.R. 5766.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Speaker, I want to commend the gentleman in the well for being the primary author of this bill, for his persistence in making certain that we had a bill which would be acceptable to all Members, for his work with the various colleges throughout the country and with the administration in bringing out a bill which I find very useful in the defense of this Nation.

Mr. SKELTON. I thank the gentleman very much. It was certainly a pleasure to work with the gentleman, his subcommittee and his committee. I want to thank the gentleman particularly for his patience in working with us to get a clean bill as we finally did.

● Mr. MONTGOMERY. Mr. Speaker, as a cosponsor of Mr. SKELTON's H.R. 5766, authorizing additional Army ROTC scholarships and establishing a scholarship program for cadets at military junior colleges, I am pleased to see this bill before the full House today. I would like to take this opportunity to urge my colleagues to join me in my support of the measure.

Under the provisions of this bill, cadets awarded ROTC scholarships will be allowed to fulfill their military obligations in the Army Reserve or Army National Guard. This is a key provision and one that could certainly solve some problems these services are now facing. The Army Reserves and National Guard play a vital role in the security of this Nation. Unfortunately, their recruitment and retention record has steadily declined in the past few years. This has resulted in a serious shortage of junior grade officers.

H.R. 5766 was written to help alleviate the diminished numbers in the Reserve and National Guard as well as attract a high quality of men and women into our other armed services. The bill almost doubles the number of ROTC scholarships available to college students. There is a serious shortage of quality junior officers in our Army. This shortfall has serious implications to the defense of our country, especially at this time when we are considering the impact of SALT II and the need for strengthening our NATO commitment. The ROTC has always provided our military with top grade junior officers. By increasing the number of scholarships, extending them to military junior colleges and allowing the cadets at these junior colleges to serve their obligation in the Army Reserve and National Guard, we will be effectively increasing our efforts to attract larger numbers of quality young people in the ranks of Active, Reserve, and National Guard Army junior officers.

Mr. Speaker, I would again urge my colleagues to vote for this bill under the suspension of rules. Thank you for the opportunity to share my thoughts on this important piece of legislation.●

● Mr. HARRIS. Mr. Speaker, I rise in support of H.R. 5766, which authorizes additional ROTC scholarships for the Army and establishes an ROTC scholarship program for cadets attending military junior colleges.

Strengthen our Armed Forces, begin with adequate pay and benefits for military personnel. Army ROTC scholarships provide a significant incentive to young people considering entering the Army, and the program should be expanded.

Too often, Members of Congress think of a strong national defense only in terms of sophisticated technology, missiles, and tanks. Too often we forget that the backbone of America's national defense is the individual serviceman and woman, who have dedicated their careers to the defense of our Nation.

By making available ROTC scholarships to more young people, as H.R. 5766 would do, we will help strengthen our Armed Forces and our Nation. I urge my colleagues to support this measure.●

● Mr. CORRADA. Mr. Speaker, as cosponsor of H.R. 5766, authorizing additional Reserve Officers Training Corps (ROTC) scholarships for the Army, I rise in support of the passage of this bill.

I wish to commend my colleague IKE SKELTON for introducing this bill as well as the members of the Committee on Armed Services for reporting it out favorably.

There is an obvious need for an increase in the number of scholarships under the ROTC program. It is expected that with the passage of this bill the existing shortage of junior officers in the Army Reserve and Army National Guard will be covered. Furthermore, the establishment of a financial assistance program for certain military junior colleges provided in the bill will be an additional mechanism to increase the availability of junior officers.

I support and endorse this legislation and I urge you to vote for it.●

● Mr. WON PAT. Mr. Speaker, as cosponsor of H.R. 5766, I hereby offer for the RECORD my remarks on this important legislation I have cosponsored to authorize additional Army ROTC scholarships for cadets at military junior colleges and for related purposes.

This measure will go a long way toward helping to alleviate the serious shortage of military officers faced by our various services. No nation can long permit itself to allow this condition to exist. The strength and effectiveness of our military is directly in proportion to the quality of our military leadership.

We have an obligation to do whatever we can to help provide a new and expanded source of officer candidates for the military. This is why I was pleased to join with Representative IKE SKELTON who authorized this measure.

H.R. 5766 is a timely proposal. It promises a great return in officer candidates at a very low cost to the taxpayers. I know there are many young men and women who are eager to serve if they had the opportunity. This measure will provide them with the opportunity to become officers and to receive a college education at the same time.

I urge my colleagues to give this measure their support, and thank you for this opportunity to make my views known for the RECORD.●

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5766.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. WHITE) that the House suspend the rules and pass the bill, H.R. 5766.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3546) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 1 year.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3546; with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. GRASSLEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3546, as amended by the committee, extends the funding authorization for the Federal Insecticide, Fungicide, and Rodenticide Act and provides a few amendments to the act.

Under the bill, as reported, the authorization for funding of Federal pesticides control programs is extended for 1 additional year through September 30, 1980. H.R. 3546 authorizes the appropriation of $60,250,000 for fiscal year 1980, with an additional amount of up to $6,000,000 allocated to provide the States assistance for the conduct of applicator training and certification programs.

The authorization is less than the authorization of $70 million for the fiscal year 1979, and less than the appropriation of $68,469,000 for that year. The authorization is, however, $4,000,000 more than the amount requested by the administration and is intended to insure implementation of 1978 amendments to section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. This new provision of law authorizes appropriations to fund 50 percent of the anticipated cost to each State or Indian tribe of conducting training and certification programs during the fiscal year, as agreed to under cooperative agreements with EPA.

The committee was advised by EPA that there was budgeted for the fiscal year ending September 30, 1980, only $1,671,985 as Federal support for the State applicator and certification and training program; whereas, the amount required to meet the target of 50 percent for the costs of such programs was estimated at approximately $6,180,000. The budgeted amount came only to 13 percent of the total estimated cost of the program. In the absence of the increased funding authority provided by the committee amendment the States would not have the financial resources necessary to conduct an adequate program. The committee is concerned that if the requirements for classification and use of pesticides on a restricted basis are to be carried out effectively it can only be done if the States have completed an applicator training and certification program that provides the trained personnel necessary for this purpose.

I wholeheartedly support the extension of the funding authorization for FIFRA at the level recommended by the committee and urge the Members to join in voting for this aspect of H.R. 3546. I find myself, however, in the unusual position of asking Members to join in opposing two committee amendments. Only in a rare instance do I find myself forced to oppose a position taken by the Committee on Agriculture. Both the chairman of the committee and I have joined with other Members in asking that the House turn down the Mirex amendment and the congressional veto amendment because of what we consider to be compelling reasons.

H.R. 3546, as amended, provides for the temporary, emergency use of the pesticide Mirex during 1979 and 1980 under EPA regulations in effect on October 1, 1977. Basically, these regulations authorized the aerial application of 0.454 grams of Mirex per acre per year over open areas and prohibited its application over streams, lakes, ponds, ocean areas, forests, or other environmentally sensitive areas. The registration for Mirex was cancelled June 30, 1978, under a settlement agreement reached by the EPA and the sole registrant—Mississippi Authority for the Control of Fire Ants.

The committee adopted the amendment to deal with emergency conditions involving heavy infestations of the imported fire ant in the South.

While I am fully aware of the serious problems facing nine Southern States because of major infestation of fire ants, I oppose the committee amendment because the action was taken during full committee markup without benefit of hearings and without a full investigation of the situation concerning the risks to man and the environment involved in the use of this particular pesticide.

If this amendment is defeated, I will schedule hearings of the subcommittee which I chair on H.R. 3687 a separate bill introduced by Mr. MATHIS which will permit a full review of known scientific information about the risks to man and the environment as well as the benefits which would be derived from the proposed action. The alternative which I am suggesting will afford all interested parties an opportunity to testify. If the hearings should develop evidence that legislation is necessary it will be possible to report the bill to the House in time for action before spring application.

The action taken in the committee is contrary to the procedures established for regulating pesticides which was set up under FIFRA. I am concerned that we may have acted in haste without benefit of hearings. This would set an unwise precedent for the future.

There is another issue to be considered by the Members of the House. Since the action was taken in the committee the Environmental Protection Agency has granted an experimental use permit to American Cyanamid for broadcast application on 110,000 acres of one of its products designed to control the fire ant in the South. In addition, there are some other pesticides that are currently available that permit mound to mound application. While this may not be sufficient to provide full protection for the affected areas, it will do much to identify some means of alleviating the situation.

H.R. 3546 also establishes congressional veto procedures for rules and regulations adopted by the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act. The provision authorizes both Houses of Congress to veto any rule or regulation within 90 days after issuance. If one House has voted disapproval of a rule or regulation, the action would become final unless the other House reverses the action within the prescribed time.

Chairman FOLEY and I are also opposed to this amendment. FIFRA is unique among regulatory statutes. Under the act as it is presently written, the Administrator must refer both proposed regulations and final regulations which implement FIFRA to the Committee on Agriculture in the House and the Committee on Agriculture, Nutrition, and Forestry in the Senate prior to publication in the Federal Register. Proposed regulations must be so referred 60 days prior to publication and final regulations 30 days in advance of publication.

Thus, the Congress has built into this statute in a unique, and meaningful way, provisions which assure careful consideration of all points of view and which provide a means by which members of the Committee on Agriculture can make their views known to the EPA prior to the publication of any final regulation implementing the FIFRA.

One consequence of this, however, has been to slow the promulgation of final regulations. This situation would, we believe, be exacerbated by the congressional veto amendment. We are afraid that enactment of this language would lead us into a situation where the agency will find itself unable to develop and promulgate regulations in less than a year. This is, as we see it, an intolerable situation which could, in fact, delay the implementation of major substantive amendments to the FIFRA agreed to by the Congress in the Federal Pesticide Act of 1978.

It is important, we believe, that these amendments be implemented in an expeditious manner for the benefit of the American people. The congressional veto language included in H.R. 3546 would

delay the implementation of these provisions and could, therefore, prove to be very counterproductive.

The Committee on Agriculture has made a practice of keeping this agency on a short authorization. H.R. 3546 provides for only a 1-year extension of funding authority. As such, the committee will again review EPA's implementation of the pesticide programs and we will, if necessary, develop further amendments to the FIFRA to insure that the program operates efficiently and in accordance with the intent of Congress.

Further, the committee accepted another amendment offered by Mr. MATHIS which sunsets all of the provisions of the act on September 30, 1985, unless Congress specifically acts to extend the law. These are, we believe, sufficient checks on the authority of the Environmental Protection Agency and will insure continued congressional oversight of their activities in the pesticide area.

H.R. 3546 does not make any other changes in the basic charter for regulating the use and distribution of pesticides. Prior to 1978 there had been many problems encountered in administration of the act. The registration process was stalled and the act the subject of much controversy. As a result of extensive oversight by the committee, there was enacted last year a set of comprehensive amendments to FIFRA which I believe dealt with these problems in an even-handed manner. It is my belief that no additional program amendments are warranted at this time until the 1978 amendments can be fully and more accurately evaluated.

I hope the Members will join me in voting in support of the extension for 1 year of the funding authorization of FIFRA. Next year we will again review the administration of the act to determine whether any further changes are necessary.

□ 1240

Mr. GRASSLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3546, to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 1 year, that is fiscal year 1980.

This legislation extends the authority for funding of Federal pesticide programs for 1 year through September 30, 1980. It provides for $66,250,000 in funding authority. This legislation as originally reported by the Subcommittee on Department Investigations, Oversight, and Research provided for funding authority of $62,250,000, but an amendment was adopted in full committee adding $4 million to the amount currently budgeted to permit the Environmental Protection Agency (EPA) to share 50 percent of the costs incurred by the States in training and certifying pesticide applicators.

I should point out that the Public Law 96–103 providing appropriations for the Environmental Protection Agency for fiscal year 1980 has been signed into law. The law includes EPA funding for the pesticide program. Congress seems to have the cart before the horse here, for this is an important bill and it should receive House approval.

Three additional amendments were adopted by the full committee. The first of these provides for the temporary emergency use of Mirex, a pesticide to control fire ants, for the calendar years 1979 and 1980. The second amendment deals with the so-called one-House legislative veto which gives Congress the right to veto any future EPA regulations by adopting a resolution of disapproval within 90 congressional session days after promulgation by EPA. The third amendment, a sunset amendment, provides for the expiration of all provisions of FIFRA on September 30, 1985.

The American Farm Bureau endorses this bill as reported by the committee (see letter of October 9, 1979, which I ask unanimous consent to insert in the RECORD after my statement): "The American Farm Bureau Federation urges your support of H.R. 3546 and its amendments as reported by the House Committee on Agriculture."

For some of the Members of the House, it may seem that an inordinate amount of time has been spent on FIFRA over the past few years. During the years 1977 and 1978, numerous hearings were held to try and resolve the conflicts that developed after enactment of the Federal Environmental Pesticide Control Act of 1972 and amendments thereto in 1975. The Federal Pesticide Act of 1978 was designed to cut the redtape in registration and reregisration of pesticides and resolve those issues that practically immobilized the Environmental Protection Agency pesticide program.

Only time will tell.

Deliberate action by the committee in the 1978 act extends the authorization for appropriations for only 1 year through September 30, 1979. For the very same reasoning—keeping this agency on a continuing oversight program—the Committee on Agriculture is recommending this legislation to extend authorization for appropriation only through September 30, 1980. The Environmental Protection Agency is, I believe, responding affirmatively to our committee's oversight activity, but the need continues to exercise effective oversight.

The additions by the committee of the "one-House" legislative veto of regulations and the sunset provision highlight a continuing concern by the committee members that our oversight responsibilities must continue to be actively pursued.

During the hearings held on this legislation, several witnesses indicated that problems were still being experienced with EPA's implementation of the 1978 amendments, but all agreed that an extension of 1 year might be helpful in allowing EPA additional time for implementation of the amendments passed last fall. The witnesses were assured that more extensive oversight hearings would be forthcoming if warranted, and industry concern with EPA's "cite-all" regulations relating to compensation for the use of data leave little doubt that hearings on fiscal year 1981 funding authorizations will address this issue.

In the latter instance I am referring to a problem which was raised at the hearings concerning the EPA's so-called cite-all regulations. The cite-all regulations are part of the newly published EPA regulations on compensation for use of data and appear at 40 C.F.R. sections 162.9–3 and 4—see 44 Fed. Reg. 27945, 27951. Where a generic standard exists for an active ingredient, the cite-all regulations require an applicant to acknowledge that his application relies on all data which, according to the generic standard, support the registrability of each use. Where no generic standard exists, an applicant is required to acknowledge that his application relies on all data in the EPA files which concern the applicant's product, or active ingredient, and are the type of data that EPA requires to be submitted for scientific review.

These regulations compel each applicant for registration to cite-all data in the EPA files which the EPA deems pertinent to the registration, and to offer to pay compensation under section 3(c)(1)(D) for all such data, even if the applicant chooses to rely solely on data that he himself has submitted which are sufficient to satisfy the EPA's data requirements for registration. Several district court cases have been filed which challenge these regulations on the ground that they exceed EPA's statutory authority.

As I have been led to understand the 1978 amendments, section 3(c)(1)(D) establishes a two-track system by which an applicant may satisfy the data requirements for registration. This section provides that an applicant may file either a full description of the tests made and the results thereof upon which his claims are based, or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator.

Under this section, an applicant is not required to cite, or pay compensation for, data submitted by others if he chooses to rely on his own data, as long as his own data satisfy the requirements for registration established under section 3(c)(2)(A). To require applicants to pay for other persons' data when they have submitted satisfactory data of their own would impose needless financial burdens on applicants without contributing to the public safety.

Without the request of an applicant, the Administrator may consider any information in the EPA's files for the purpose of assessing the adequacy of the applicant's data, but the use of data in this manner should not trigger any obligation by the applicant to pay compensation for the data considered.

If the cite-all provisions of the 1978 enactment are not working as I have outlined above—and I understand they are not—then our committee should explore this issue when it considers EPA's fiscal year 1981 authorization for the pesticide programs.

Finally, several of my colleagues have expressed reservations over the Mirex and the legislative veto amendments. EPA has been working for over 2 years to find a pesticide to control fire ants but, frankly, it would appear that the efforts

made are lacking in both funding and commitment. If we are told today that EPA has a viable alternative to fight fire ants, I will be pleased to know of this because fire ants themselves are a great health hazard.

The legislative (single House) veto you are all familiar with based on other legislation we have seen this amendment attached to in this session. The "sunset" amendment requires a reestablishment of the entire EPA pesticide enactment by October 1, 1985. If you support "sunset" provisions, as I do, I urge you to support this one.

I urge your favorable consideration of H.R. 3546 as reported by the committee.

Mr. Chairman, I attach the following letter:

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., October 9, 1979.

Hon. WILLIAM C. WAMPLER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WAMPLER: The American Farm Bureau Federation urges your support of H.R. 3546 and its amendments as reported by the House Committee on Agriculture.

H.R. 3546 extends the federal pesticide law (Federal Insecticide, Fungicide, and Rodenticide Act) for one year. Additional provisions, added during committee consideration, provide an additional authorization of $4,000,000 over the Administration's request in order to provide funds to meet cost-sharing commitments to the states for certification of applicator programs, register the pesticide Mirex for the calendar years 1979 and 1980 for fire ant control subject to limitations, provide for Congressional veto of EPA regulations and establish a sunset provision of September 30, 1985 for the pesticide program.

We particularly call to your attention the provision registering the pesticide Mirex. We recognize the Congressional registration of a pesticide is an extraordinary action, however, we are recommending it because of the failure of EPA to carry out the provisions in the law. Although Farm Bureau, by policy, advocates regulatory agency resolution of complex scientific questions, we believe this unusual action is justified because (1) EPA has been derelict in its response to petitions for relief from the fire ant problem which have been pending unanswered for over a year; (2) the registration provided in the bill is subject to the extensive limitations on use that were in effect in October, 1977; and (3) the registration is of limited duration and is intended to provide public protection from the fire ant pending EPA registration of alternative controls.

We thank you for your consideration of our views on this important matter.

Sincerely,

VERNIE R. GLASSON,
Director, National Affairs.

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Mr. DE LA GARZA. Mr. Chairman, I yield 7 minutes to the gentleman from Georgia (Mr. MATHIS).

Mr. MATHIS. Mr. Chairman, I thank the distinguished gentleman from Texas for yielding me this time.

As the author of the three amendments alluded to by the gentleman from Iowa (Mr. GRASSLEY) in his presentation, I feel constrained to say a few words, even though I have a strong feeling that we are going to hear some debate on this matter later in the week when the time comes for consideration of the legislation under the 5-minute rule.

As I understand it, the distinguished chairman of the full Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), is going to move to strike two of the amendments that were adopted by the full Committee on Agriculture. We are going to hear much debate, Mr. Chairman, later in the week, and I am referring to the amendment relating to the one-House veto and also the so-called Mirex amendment.

Let me address very briefly, as the gentleman from Iowa (Mr. GRASSLEY) has done, the need for the Mirex amendment and why the Committee on Agriculture, by a vote of 22 to 11, voted on May 3 to impose upon EPA the mandate that it allow the usage of Mirex.

Mr. Chairman, it was not with any degree of enthusiasm that I offered that amendment in committee, because I do not think that as a basic legislative policy we ought to attempt to mandate to the Environmental Protection Agency those insecticides or pesticides they should or should not use. However, in this particular instance the situation has become so critical, not only in my State but in eight other Southern States, that I simply felt, as do many other Members of this body, that we had no alternative but to attempt to say to the Environmental Protection Agency, "You must allow us to use Mirex until such time as some alternative or viable substitute is found."

Mr. Chairman, it was because of the feeling among many of us that we had no choice in the matter that this amendment was offered, and I think in this case the argument we were able to make in the Committee on Agriculture was one that persuaded the members of that committee that we should in fact take this approach.

I would caution all the Members of this House that the legislation we are talking about is not permanent. It does not allow the continuation of the usage of Mirex over an indefinite period of time. It is not infinite. It simply applies to calendar year 1980.

In essence, the amendment does say that Mirex could be used at the same strict environmentally acceptable levels under which it was used in 1977 through the years 1979 and 1980. But in truth 1979 is gone. The opportunity for the usage of Mirex has passed this year. The only opportunity we would have for aerial application of Mirex now, under the provisions of the Mathis amendment, would be in the spring and fall of 1980 if the House in its wisdom retains this amendment, and, Mr. Chairman, I hope it does.

One of the arguments that has been brought forth by the distinguished gentleman from Texas (Mr. DE LA GARZA) and the distinguished gentleman from Washington (Mr. FOLEY), the chairman of the committee, is that this is not the way that we should approach this problem. They do concede that there is precedent for this approach, because in the 93d Congress there was similar legislation that was introduced to deal with a particular problem that existed in the northwestern part of the country.

The full Committee on Agriculture did in fact vote to create an exemption in that instance for the use of a specific chemical compound to relieve a specific problem that existed in a specific part of the country.

That is exactly what we are talking about here today.

Fortunately for our friends in the northwest, the need for that legislation in the other instance became moot because the Environmental Protection Agency backed off from its previous position and decided to allow the usage of that particular compound that the committee had earlier voted to recommend they be allowed to use. That is not the instance in this case.

However, the gentleman from Texas (Mr. DE LA GARZA) and the gentleman from Washington (Mr. FOLEY) are going to tell us when they offer that amendment that we ought to, at least in the Committee on Agriculture, follow the normal legislative procedures of having full hearings on this amendment in the form of a bill that I introduced earlier this year. I refer now to essentially the amendment that is contained in the legislation before us here. The gentleman from Texas and the gentleman from Washington cite the fact that 3 days of hearings were held in the 93d Congress.

Mr. Chairman, I would submit to the gentleman from Texas and to the other Members that in fact this legislation was reported from the full Committee on Agriculture on May 3. That was 6 months ago, and still not 1 day, not 1 hour, not 1 minute of hearings has been held by the committee relative to this matter. Ample time has presented itself. We have had an opportunity to have hearings.

The truth is that we must act now, and I suspect very strongly, Mr. Chairman, that we will have an opportunity to hear the arguments pro and con, not only on this amendment but on the other amendments by which the gentleman from Washington intends to strike language later on in the week.

I do not want to be redundant, and I do not want to burden the Members of this body with repetitiveness. I just think, Mr. Chairman, that this legislation is the best bill relative to the Environmental Protection Agency that has ever been brought to the floor of the House.

Mr. GRASSLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I thank the gentleman for yielding.

I would first, Mr. Chairman, like to commend the gentleman from Georgia (Mr. MATHIS) for the statement he just made. He has stated the case adequately, I believe, so that all the Members can understand it.

I intend to support H.R. 3546 as it was reported by the Committee on Agriculture and will oppose the amendment to delete the language added by the gentleman from Georgia in committee. His language will allow the limited use of the pesticide Mirex for the control of fire ants in several Southeastern States.

Fire ants are more than a nuisance in the Southeast, Mr. Chairman; they are

really a health hazard. I would certainly hope that all of our colleagues will carefully examine this problem and, because this affects only the Southeast, not dismiss it as a small problem. As evidence as to its severity, I am including with my remarks a copy of a letter I received from one of my constituents, Mr. Jimmy Carlisle of Montgomery, Ala. His comments reflect the feelings of my constituents on this very serious matter.

MONTGOMERY, ALA.,
October 17, 1979.

Hon. WILLIAM L. DICKINSON,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DICKINSON: I am writing you concerning Fire Ants and legislation pending in the House, HR 3546. I respectfully request that you vote to pass this legislation as amended by Congressman Dawson Mathis of Georgia.

The problems I've personally had with Fire Ants goes back as far as I can remember. I was born on a dairy farm here in Montgomery County. If you don't think a Fire Ant mound will not damage a bush hog then you need to be sitting on a tractor when it hits one. I have many times had to get back on the tractor because of Fire Ants and move it to another place so I could get under the bush hog and replace the shear pins that had been broken when the bush hog hit the first Fire Ant mound.

I could go on and on about damage we have had to hay mowers and other farm equipment, problems of getting around a pond to fish, or trying to get to a dove or quail after you shot it before the Fire Ants did. Most of this has been 12 to 15 years ago. Imagine what it is like now. They tell me they reproduce faster than rabbits.

Alabama is not the only state with this Fire Ant problem. While living in Mississippi a few years ago, I witnessed an automobile accident one night where a seventeen to eighteen-year-old girl was pulled from the wreck and laid down in a Fire Ant bed. Because of her condition no one knew she was in an ant bed until they themselves were bitten. I understand she had more problems from the massive bites from the Fire Ants than her injuries from the accident.

I suppose I really declared war on Fire Ants last year when my three-year-old son got in a Fire Ant bed while visiting with my wife's grandparents in Mississippi. This bed was around the house, not in the fields. The emergency room bills and doctor bills did not bother me as much as hearing my son scream like he did.

H.R. 3546 is now the only hope we have to control this dangerous pest. I ask you to please vote for the passage of this bill and urge your colleagues to support it.

Sincerely,

JIMMY CARLISLE.

Mr. DE LA GARZA. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I would just like to say that I appreciate the concern of my colleague, the gentleman from Georgia (Mr. MATHIS). I have personally worked with him in the past, and certainly he has been most diligent in this endeavor.

All of us on the committee have worked from the beginning to try to arrive at some solution to the fire ant problem. Unfortunately, Mirex, which is the name of the chemical that was most commonly used, is no longer available. I would like to summarize the history of the pesticide Mirex and the efforts by the State of Mississippi to develop an alternative called ferriamicide:

Mirex was introduced in 1961. After 1961 it was applied under the sponsorship of the USDA—State fire ant program in all or parts of Texas, Florida, Arkansas, Alabama, Mississippi, Louisiana, Georgia, North and South Carolina. In 1969 termination of the use of Mirex was recommended on the basis of substantial evidence developed under the auspices of the National Cancer Institute that Mirex is a potential carcinogen.

EPA conducted cancellation hearings on Mirex in the period 1973–76. In May 1976 all Mirex registrations were transferred to an agency of the State of Mississippi, the Mississippi Authority for the Control of Fire Ants.

On August 31, 1976, the Mississippi authority proposed a plan providing for the phaseout of Mirex use allowing the compound's continued use for a reasonable period of time during which alternative means of control could be developed.

The plan specifically provided that:

All Mirex registrations would be canceled by June 30, 1978;

No single acre would be treated aerially more than once prior to December 31, 1977, when all aerial applications would end;

Mirex could not be applied within a hydrologically determined coastal zone; and

All Mirex used after January 1, 1977, must be the 10:5 formulation rather than the original and more toxic 4X formulation.

On October 21, 1976, the Administrator accepted the Mississippi plan. Finally, registration of Mirex was canceled as of June 30, 1978.

On December 16, 1977, the Mississippi Department of Agriculture and Commerce requested an emergency exemption for use of a substitute for Mirex called Ferriamicide by aerial, ground, and mound application on 3 million acres in Mississippi. Commissioner Jim Buck Ross also stated that eight other Southern States would apply for a similar exemption to treat 14 million other acres. Ferriamicide contains the active ingredient Mirex and a small proportion of amine and metal salt which enhance the degradation of the toxicant. Ferriamicide is designed to be applied on a corncob grit carrier with a soybean oil attractant. Ferriamicide has basically the same degradation products as Mirex—only degrades faster.

After initial approval by EPA of limited use of Ferriamicide in Mississippi, the Environmental Defense Fund sued EPA to prevent use of Ferriamicide. The judge directed EPA to reopen the comment period on the decision.

After complying with the judge's decision the agency issued a modified approval of Mississippi's request on January 30, 1979. On February 1, 1979, a Canadian study on photo-Mirex, a degradation product of Mirex, indicating that photo-Mirex is 10 to 100 times more toxic than Mirex, was brought to the agency's attention. The agency informed Mississippi that they would review the Canadian data to determine if the risk analysis on Ferriamicide would be affected. Because of the problems associated with Ferriamicide, the agency has not approved its use.

In a recent development EPA has approved the experimental use of a chemical product called 217,300, manufactured by American Cyanamid. Some acreage in the South has been sprayed by aerial application this fall and up to 100,000 acres will be treated in the spring of 1980 to control the fire ant.

I might mention also that our colleague, the gentleman from Georgia (Mr. MATHIS), brought out the fact that this committee had in the past acted on legislation directing the use of a canceled pesticide on lands in the Northwest. This is partly correct. The fact is that there were hearings held in the committee on a separate measure, and the committee then decided that DDT would be allowed to be used for the control of insects on agricultural or forestry lands if certified by the Secretary of Agriculture. That bill did mandate the use of the canceled pesticide, but, rather, what the committee did was to allow the Secretary of Agriculture the leeway to decide when DDT was needed and could be used. If he so decided, then we gave him the authority to do so, circumventing EPA's decision on that matter. That is an entirely different situation than what we have in this instance.

☐ 1300

I might mention, Mr. Chairman, that this is a real problem that could become national in scope. Hopefully, we might be able to contain the fire ant, but it is a national problem, and all of us want to assist in funding a responsible solution to the fire ant problem. They are as far down as my congressional district in south Texas now. But we think the proper procedure is to put together all of the scientific information in hearings so that we have the best information and so that we can see where we are with the 217,300 experimental use permit. Thus we can determine the extent of the problem, with fairness, and see if we can, all working together, try and arrive at some solution. We need a solution.

I know the gentleman from Georgia mentioned, and I assure the Members that I sympathize with the gentleman, that his action was out of frustration that nothing was being done. I assure the Members this may have been the case with the past administration of EPA. We do not think that it is so now. We think we are finding more cooperation because of the changes in the law, because of the changes in personnel, and because of the closeness with which the subcommittee which I chair and this Committee on Agriculture have worked with the present Administrator of EPA. I think that we can, in proper sequence and time, do something, regardless of what happens with this amendment, before the spring application period in 1980.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Georgia.

Mr. MATHIS. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for the statement he is making, and I also want to commend the gentleman for his diligence in the past. in terms of understanding the problem.

As the gentleman mentioned, he has an infestation that has occurred in his district, Mr. Chairman, of the fire ants, as well, and I think the gentleman and I have a difference of opinion as to how we must proceed. I must admit that the gentleman was perhaps more restrained in his approach to this problem, and it may be because his district has not suffered the pain and suffering that mine has relative to the fire ant.

I know there are now a large number of Members who are not at this point in time listening to this very interesting debate, Mr. Chairman, but some of them may read it in the RECORD, and I would like, Mr. Chairman, if the gentleman will yield further, just to correct the RECORD relative to the aerial application that has been approved for the compound that he mentioned, the 217,300. The truth is, Mr. Chairman, that 10,000 acres were authorized by the Environmental Protection Agency for a fall test spraying. That test spraying is now complete on 7,000 acres, not on 10,000 acres. In fact, the efforts to spray were thwarted by the people in the Agriculture Department, in the Animal and Plant Health Inspection Service, and we are not going to have as full a test as we would like to have.

Mr. Chairman, I will conclude my very brief remarks by saying that we never would have received authorization from the Environmental Protection Agency for this very limited testing of this promising new compound had it not been for the threat of this House passing this legislation that has been reported from committee. If we do not continue to keep the Environmental Protection Agency on a short leash, then they will go back to being as unresponsive as they once were.

Mr. DE LA GARZA. Mr. Chairman, I appreciate the gentleman's remarks.

I might add to what the gentleman has mentioned, though, that they now have allowed for the spring 100,000 acres aerial application of the product 217,300. I do agree with the statement of the gentleman that the EPA, as I mentioned before, is more responsive. I do not think it is because of this amendment, in all due respect to the gentleman, but because of prior restraint placed on that agency when we were authorizing funding for 30 days or 60 days at a time. I am convinced that they have the same commitment that the gentleman from Georgia, the gentleman from Texas and, I am sure, the gentleman from Washington, the chairman of this committee, have—that regardless of where in the United States the fire ants may be located, the commitment is the same control, and hopefully, completely eradicate this pest. Regardless of the outcome, the gentleman from Georgia is assured of that commitment by the chairman of the committee and the gentleman from Texas.

● Mr. MONTGOMERY. Mr. Chairman, I would like to take this opportunity to state my strong support of the Mathis amendment to H.R. 3546. This Committee on Agriculture supported amendment would grant the use of Mirex for about a year to control fire ant infestations. My State is one of many in the Southeast and Southwest that suffers from the presence of this pest. I would add that it is more than a pest because it can cause death. I believe this may be one of the problems that EPA has with the fire ant—they regard it as a pest that is a nuisance rather than a life threatening insect. I have firsthand knowledge of the devastation these insects are causing the residents of infested areas, and I would like to commend Mr. MATHIS and the members of his committee for their human concern.

The only pesticide available that is effective in controlling the fire ants on a large enough scale is Mirex. Unfortunately, due to excessive efforts of persons more interested in our environment than human life and suffering, Mirex was banned in 1978. Since that time the fire ant has spread from 130 million to 190 million acres. They are now in nine Southern States and their health and economic damage indeed are a threat to the whole temperate climate zone in this country unless measures are taken to control them.

I have encountered numerous reports of unnecessary and unbelievable suffering as a result of stings from the fire ant. In May of this year a Georgia woman died from an allergic reaction to an ant bite, and the next month a Mississippi teenager nearly suffered the same fate. Many children and adults live with the threat of a deadly reaction to stings from the fire ants residing in their States in epidemic proportions.

There are no complete statistics available on the number of deaths and cases of hospitalization, to say nothing of the less serious cases of pain and suffering in which hospitalization was not required. To give you some idea of the magnitude of the threat of this insect, I would like to share with you statistics from a survey made in 1971 in only 143 counties in only three of the nine States affected. At that time, 8 years ago, in the small area surveyed there had been 17 deaths, 12,438 treatments with 6,778 of those receiving secondary treatment, and five amputations, all from the stings of the fire ant. In another report compiled later, there had been over 30,000 cases of hospitalization reported and 24 limb amputations caused by the sting of this insect. This, of course, does not touch on the large numbers of cases of daily suffering on a smaller scale.

Now, let us consider the number of deaths and illnesses that have been caused by Mirex. In the more than 15 years since we began using it, there has not been a single, and I repeat single, case of illness attributed to Mirex and no deaths. The only case that EPA has against Mirex is that the chemical has entered the human body via the food chain and from a test in which extreme, and again I repeat extreme, quantities of Mirex fed to rats caused tumors. From this test on rats they ruled Mirex a "potential" carcinogen in humans. The National Cancer Institute which conducted this research stated in 1976 that their studies were unsatisfactory and they were redoing the tests.

In addition to the human suffering, the economy of these agricultural areas has fallen prey to the fire ant. Crops have been destroyed and fields have been taken over by fire ant mounds. Millions of dollars have been lost due to damage to machinery, crops, farm animals, and the devaluation of property. These are all controllable by the use of Mirex and I question our official's decisions to refuse eradication of these insects.

I feel the time has come for this Congress to intervene and seriously weigh the known benefits against the risks when they are based on such nebulous and uncertain data. There is no doubt in my mind that these nine infested States are in a state of emergency, and I feel it is imperative that the ban on Mirex be lifted to help deal with this emergency until an effective substitute can be developed. Work is being conducted on a number of pesticides, but it may be 2 or more years before any of them could be approved and available in large enough qnantity. Meanwhile, there is no effective substitute for Mirex.

Mr. Chairman, considering the information I have presented, I find it hard to believe that we are denying the victims of fire ant infestations the relief that is available and that they desperately need and deserve. I hope this body will not be that insensitive. I would urge my colleagues to support Mr. MATHIS in his efforts to ease the suffering in these nine States and give us the necessary time to develop an effective substitute control of the fire ant.

Thank you.●

● Mr. WAMPLER. Mr. Chairman, I rise as the ranking minority member of the House Agriculture Committee in support of the committee bill H.R. 3546. This bill extends the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for 1 year through September 30, 1980 and amends the current law in three places. These three amendments are: First, to provide a temporary emergency use of the pesticide Mirex through next year to help nine Southern States combat fire ants; second, to apply the "one house" legislative veto to any EPA regulation; and third, a "sunset" amendment to provide for the expiration of all provisions of FIFRA on September 30, 1985.

For some Members it may seem that an inordinate amount of time has been spent on FIFRA over the past few years. During the years of 1977 and 1978 numerous hearings were held by your committee to try and resolve the conflicts that developed after enactment of the Federal Environmental Pesticide Control Act of 1972 and amendments thereto in 1975. During the last session the Congress redesigned FIFRA to cut the redtape and resolve these controversies that had for all intents and purposes immobilized the Environmental Protection Agency pesticide program. To assure itself that EPA would in fact cut this redtape and get the pesticide program underway as Congress envisaged it; a deliberate move was made to only extend the 1978 authorization for appropriations for 1 year through September 30, 1979.

However, as in years past, even with EPA's promises, our committee has not received the cooperation from personnel at EPA necessary for the committee to actively exercise its oversight responsibilities. Again the committee found it

necessary to only recommend the extension of authorization for appropriations in the bill now before you through September 30, 1980.

The additions by the committee of the "one-house" legislative veto of regulations and the sunset provision only highlights the unhappiness felt by the vast majority of the committee members in their individual and collective associations with EPA. I might add that I personally feel that much of the concern the committee has developed with respect to Mirex stems from the apparent attitude and/or philosophy at EPA, which leads one to assume that the regulators at this agency believe they have a "divine mission" to eliminate all pesticides from use rather than to develop technology to control pests to the benefit of mankind.

If one examines the broad, cumulative testimony of EPA before the House Agriculture Committee or its proposals or regulatory actions, one gains the impression quickly that EPA does not consider that pests cause significant damage to man. Therefore one must conclude that EPA considers that any single pesticide has but little benefit in any given regulatory action.

Inasmuch as your committee is charged with the legislative responsibility for the production and distribution of food, fiber and forest products and more recently for inputs into the energy equation for our Nation's well-being, and our agricultural experts tell us we are losing 30 percent of our agricultural production to pests, we must dispute EPA's knowledge and wisdom in the total agricultural area when we consider the enactment of laws that deal with pesticides.

During the hearings held on this legislation, a number of witnesses indicated that problems were still being experienced with EPA's implementation of the 1978 amendments but all agreed that an extension of 1 year might be helpful in allowing EPA additional time for implementation of the amendments passed last fall. The witnesses were assured that more extensive oversight hearings would be forthcoming if warranted.

Finally, several of my colleagues have expressed reservations over the Mirex amendment. EPA states that it has been working for over 2 years to find a pesticide to control fire ants, but frankly, it would appear that its research efforts are lacking in both funding and commitment. At this point I request permission to insert the views of Commissioner of Agriculture and Consumer Services, S. Mason Carbough, Commonwealth of Virginia, on the subject of Mirex in the RECORD.

I urge your support for H.R. 3546.

COMMONWEALTH OF VIRGINIA,
Richmond, Va., August 2, 1979.

Hon. WILLIAM C. WAMPLER,
House of Representatives,
Washington, D.C.

DEAR BILL: My entomology staff have had telephone communications this week with Mr. Bill Fancher, Entomology Consultant to the Mississippi Commissioner of Agriculture, Mr. Jim Buck Ross, pertaining to the use of Mirex bait to control fire ant. It is our understanding that the people living in the infested areas are highly concerned, especially about their children, and are making it known.

There is an improved bait formulation called 10–5 where a reduced amount of Mirex is confined to the outside of the corn cob grits. Since the grit is not being impregnated the bait is effective at the rate of 0.454 grams per acre. This is virtually nothing.

Mr. Fancher, a retired Southern Regional Director of Plant Pest Control for the USDA, stated that since the advent of Mirex and its application, he has worked from Georgia to Texas and has never known of any serious consequences caused by its use.

It is, therefore, our desire that you support the amendment to H.B. 3546, introduced by Congressman Mathis of Georgia, that would extend the authority to use the 10–5 bait through 1980. This is a FIFRA amendment. They have no alternate effective pesticide at this time, but Research and Development are working on an alternate and it is hoped that something will be found by the end of 1980.

The amendment has cleared the Agriculture Committee chaired by Congressman Foley of the State of Washington and has been reported to the House. Your support of this amendment will be very much appreciated.

Sincerely,

S. MASON CARBAUGH,
Commissioner.

● Mr. WAXMAN. Mr. Chairman, I would like to speak to section 2 of H.R. 3546, the Agriculture Committee amendment that would reauthorize the use of the pesticide, Mirex, for 1979 and 1980. I oppose this amendment and join with the distinguished chairman of the Agriculture Committee, Mr. FOLEY, and the distinguished chairman of the Subcommittee on Department Investigation, Oversight and Research, Mr. DE LA GARZA, in urging my colleagues to vote to disapprove section 2. I do, however, support a simple 1 year extension of the Federal Insecticide, Fungicide and Rodenticide Act.

I recognize that the fire ant is a significant pest and inflicts a painful sting. However, I feel that aerial application of this pesticide poses a substantial risk to the environment and to those who come into contact with the pesticide and that this risk far outweighs any benefits to be derived by its use. In fact, during the 16 years Mirex was used in the South, the area of infestation of the fire ant increased more than six-fold: from 30 million to 190 million acres.

I am concerned about this amendment because I feel the use of Mirex poses a risk to human health. The National Cancer Institute opposes its reintroduction into commerce because several studies have shown Mirex to be an animal carcinogen and thus a possible human carcinogen. Other studies have shown that Mirex passes through the human placenta to the unborn and that it has been found in human breast milk. Further, 22 percent of those tested in the nine Southern States where Mirex was used most prevalently had Mirex residue in their fat tissue; 45 percent of those tested in Mississippi showed Mirex residue in their fat tissue.

The chemical composition of Mirex is such that it is resistant to human metabolism and it is slow to degrade once applied to the land—this degradation process may take a decade or more and it degrades into components that are even more potent than Mirex. One product of decomposition is Kepone—it was only a few years ago that human exposure to Kepone caused serious health problems in Hopewell, Va.

Finally, there is evidence that Mirex accumulates in terrestrial and aquatic systems and that the level of Mirex in tissue increases in each organism as it progresses up the food chain.

In their additional views in the report accompanying H.R. 3546 (Report 96–147), Chairmen FOLEY and DE LA GARZA state that the committee may have approved the Mirex amendment without a full review of the scientific information concerning the risks to man and to the environment inherent in the use of Mirex. They state a more prudent course would be to hold full and complete hearings on H.R. 3687, a bill to authorize use of Mirex. I concur in this approach and feel very strongly that the question of whether to permit the use of Mirex should be subject to patient and thorough congressional scrutiny and a careful weighing of the competing interests.

I urge my colleagues to support Chairmen FOLEY and DE LA GARZA in voting against section 2 of H.R. 3546, the Mirex amendment, when it is considered later this week.

Mr. Chairman, I would like to submit for the RECORD an editorial that appeared recently in the Washington Star that outlines the choice before us and a more detailed statement pertaining to the possible adverse consequences of employing Mirex against the fire ant.

[From the Washington Star, Oct. 17, 1979]

FIRE ANTS AND H.R. 3546

The House shortly will vote on H.R. 3546, prosaically entitled "To extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended for one year."

That "as amended" is a stick too stout by far.

The target of the amendments is the fire ant, a persistent and aggravating pest that infests hundreds of thousands of acres in the southern United States. But the bill has an ideological booster rocket, reflecting growing displeasure at federal regulation in general: It would re-authorize the use of the banned pesticide Mirex and, in anger over the Environmental Protection Agency's prohibition of the chemical, would end EPA's authority over all pesticides.

That the bill as amended was approved by the Agriculture Committee—without hearings—was unfortunate; its approval by the full House would be thoughtless.

Mirex was in extensive use from 1962 to 1976 against fire ants. Concern over its toxicity led to a three-year formal hearing process, after which EPA concluded that Mirex was potentially more dangerous than beneficial and banned it. A number of laboratory tests, including one by the National Academy of Science, indicated cancer-causing properties in Mirex, and pointed out its resistance to degradation (a half-life of 5 to 12 years); the study found that one product of Mirex's decomposition is Kepone, which has been banned because of evidence of its severe toxicity to humans and the environment—as Virginians are aware after the James River affair.

Rep. DAWSON MATHIS, D-Ga., the architect of the amendments, and his supporters are understandably upset at the untrammeled existence the fire ant has led since reaching the U.S. early in the century, and especially wroth at the ban on Mirex. The ant has a venomous sting that is annoying to

the two-footed and can harm the four-footed; in addition, the fire ant energetically constructs mounds measured in feet, not inches, that can impede land use. But the fire ant is not a prime destructive pest to agriculture.

Mirex is considered by those who want it made available again to be the only effective chemical against the insects.

But is Mirex effective? During a decade and a half of extensive use of the pesticide, fire ants extended their domain from 30 million acres to over 200 million. EPA studies have found Mirex residues in the fatty tissue of 45 per cent of the people tested in Mississippi, one of the states of most intense use. Laboratory tests have also shown that Mirex can be communicated to the unborn through the placenta and the pesticide's residue has been found in breast milk.

Those two aspects suggest that the federal ban on Mirex was hardly capricious. If Mirex were the only registered pesticide for use against fire ants, the delicate balancing of benefit against harm would be more difficult. But there are now 10 registered fire-ant pesticides and experimental-use permits have been granted for two others.

If the case against Mirex is not definitive, the evidence that risks outweigh benefits is persuasive. EPA has fulfilled its responsibilities.

But Rep. MATHIS and his supporters want to go well beyond fire ants. In addition to permitting renewed Mirex application, including aerial spraying, the bill's other amendments would strip EPA of its authority over pesticides by 1985 and would provide for a one-house veto over any EPA pesticide action in the interim.

The Environmental Protection Agency is liable, heavens knows, to criticism. The Mathis amendments, however, are unworthy of Congress and, indeed, verge on irresponsibility. The House should excise them from H.R. 3546. The fire ant is a nasty piece of work; but even nastier could be the continued use of a highly suspect agent to control it.

The marginal effectiveness of Mirex is far outweighed by its insult to the environment. EPA's studies have shown that 45 percent of humans tested in Mississippi, and 22 percent of those tested in nine Southern States where Mirex was used, had Mirex residues in their adipose (fatty) tissues; there is a clear correlation between geographical distribution of the pesticide and its appearance in human tissue. The States with a history of the heaviest Mirex usage—Louisiana, Mississippi, and Georgia—have the highest number of human tissue samples with Mirex residues. It has been demonstrated that Mirex can be communicated to the unborn and to the young because it passes through the human placenta to the fetus and it has been found in human breast milk.

The potential for severe environmental insult caused by the use of Mirex is great for a number of reasons. A recent report states:

Mirex is resistant to degradation and metabolism and has an environmental half-life of five to twelve years. It tends to accumulate in terrestrial and aquatic systems and shows evidence of biomagnification as it moves through these systems. When it undergoes decomposition, one of its degradation products is Kepone . . . the chronicity factor (of Mirex) is one of the highest observed for any pesticide, largely because of the highly cumulative nature of mirex in biological systems and the fact that it is metabolized or excreted at extremely slow rates. The pervasiveness of chronic physiological and biochemical disorders induced by mirex in experiments with various vertebrate species, together with its capacity for bioaccumulation, would tend to bring into question the widespread (broadcast) use of this pesticide.[1]

Several studies have shown Mirex to be a carcinogen. The first bionetics experiment, published in the journal of the National Cancer Institute in 1969, showed that Mirex induced a highly statistically significant increase in liver hepatomas in both sexes of both strains of mice in which it was tested.[2] The report listed Mirex among 11 of the 120 compounds judged to be "clearly tumorigenic" for the strains of mice used at the dose levels tested.

The second bionetics experiment analyzed the effect of Mirex and other chemicals on rats. Several assessments of this study indicated that there was a highly statistically significant increase in liver cancers of both male and female rats fed Mirex. Additionally, there was a very high incidence of hyperplastic nodules of the liver in both sexes of rats fed different levels of Mirex. Hyperplastic nodules are nodules that have reached the stage where they are no longer dependent upon continued exposure to a chemical stimulus; if the chemical is discontinued, the nodules continue to progress and become carcinomas. Still further assessment indicated that Mirex causes a significant induction of liver tumors in test animals.

The first and second bionetics experiments demonstrated that Mirex induces malignant tumors (hepatocellular carcinomas) in mice and rats, including benign tumors that are generally recognized as early stages of malignancies (hyperplastic nodules or neoplastic nodules). Therefore, by employing its "Interim Cancer Assessment Procedures," the EPA has concluded that Mirex is a potential human carcinogen and that the carcinogenic risk that Mirex poses to man depends upon the extent of human exposure to Mirex.

In 1969, a special panel of medical experts, assembled under the auspices of the Department of Health, Education, and Welfare, urged curtailment of the use of Mirex because the National Cancer Institute reported positive results from a cancer test on Mirex. In 1978, the National Cancer Institute performed a second study which confirmed the carcinogenic potential of Mirex.

There is also substantial evidence that Mirex causes widespread changes in populations of aquatic ecosystems and that it is highly toxic to crustaceans, often at miniscule levels of exposure. The effects upon crustaceans range from short-term lethality to more prolonged and subtle consequences for the development of these organisms. Additionally, it has been demonstrated that Mirex is harmful to nontarget insects, including some natural predators of crop-damaging insects. Mirex has also been shown to cause birth defects and various sorts of nerve damage in experimental animals.

Once put into the environment, Mirex lasts for a substantial period of time and degrades at a very slow rate. During the degradation process, Mirex breaks down to Kepone, itself banned as a carcinogen, and photomirex, which has been found by several recent Canadians studies to be five times more toxic than Kepone, and 100 times more toxic than Mirex.

On March 23, 1973, the Administrator of EPA gave notice of its intention to hold a hearing[3] pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act to determine whether the outstanding registrations of Mirex products, which were at that time held by Allied Chemical Corp., should be cancelled or amended. Hearings were commenced in July of 1973 and continued over the next 3 years, creating a record of more than 13,000 pages. In May of 1976, the Allied Chemical Corp. transferred its Mirex registrations to the Mississippi Authority for the Control of Fire Ants. In September of 1976, the Mississippi authority offered to cancel the registrations of its Mirex products to phase out production, and to suspend the pending administrative proceedings indefinitely.

The Mississippi authority submitted a formal plan for the cancellation of Mirex in stages, with aerial application to cease in 1977, and all use to end by June of 1978.[4] The Administrator of EPA approved the Mississippi authority's plan and in October of 1976 (over the objection of the U.S. Department of Agriculture, which was a party to the administrative proceedings) the cancellation was ordered by EPA.

The cancellation order was accompanied by a "Summary of Evidence and Other Information and Statement of Reasons", which describes the administrative proceedings, the environmental ramifications of the use of Mirex, and offers a justification for the Agency's acceptance of the Mississippi authority's plan.

Those who favor the use of Mirex indicate that there presently does not exist an effective substitute for it, but that by the end of 1980 there will be an effective substitute. Thus, the prohibition on the Agency from banning Mirex as contained in the amendment to H.R. 3546 would fill the gap until an effective substitute is found. However, several pesticides are now allowed for mound control of fire ants (though not for aerial application): Dursban, Baygon, Diazinon and, until 1980, Chlordane. Registration for another pesticide called Imidan is immi-

[1] "Kepone, Mirex, Hexachlorocyclopentadiene: an Environmental Assessment" National Research Council National Academy of Sciences, 1978. at 9 and 53, 54.

[2] See EPA's "Summary of Evidence and Other Information and Statement of Reasons" which accompanied EPA's order cancelling the use of Mirex.

[3] See "Summary of Evidence . . ." at 293 for earlier inconclusive Administrative proceedings which generally restricted the use of Mirex.

[4] A group of users of Mirex petitioned the U.S. Court of Appeals for the Fifth Circuit to prevent the settlement between the EPA and Mississippi Authority and to require completion of the suspended Mirex hearing. The Court held that FIFRA did not afford them these rights. *McGill* v. *Environmental Protection Agency*, No. 76-4353, U.S. Court of Apps., 5th Cir., April 20, 1979.

nent. Additionally, EPA recently granted an experimental use permit to American Cyanamid to test a new compound on 10,000 acres in several States, for ground and aerial application. Also, an experimental compound developed by USDA and manufactured by the Stauffer Chemical Co. is being field tested for possible aerial use.●

Mr. GRASSLEY. Mr. Chairman, I have no further requests for time.

Mr. DE LA GARZA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GRASSLEY. Mr. Chairman, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MINETA) having assumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3546) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 1 year, had come to no resolution thereon.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3546.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1871, EXTENDING EXISTING ANTITRUST EXEMPTION FOR OIL COMPANIES THAT PARTICIPATE IN AGREEMENT ON INTERNATIONAL ENERGY PROGRAM

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1871) to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program, with the Senate amendment to the House amendments thereto, disagree to the Senate amendment, and request a conference with the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Speaker, reserving the right to object—and I shall not object—I would concur in the request for a conference. There are only two minor issues involved in this piece of legislation, but the legislation is important. It is necessary that we resolve those issues and apparently necessary that we have a conference on that subject. It is hoped on this side of the aisle that that conference can be accomplished swiftly and that the Senate will, happily, concur in the arrangements called for in the House bill and that we may bring this issue back to the House and the Senate for final passage in very short order.

Mr. DINGELL. Mr. Speaker, will the genteman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I concur in the comments of my good friend, the gentleman from Ohio (Mr. BROWN).

Mr. Speaker, the bill, S. 1871, is an extension of authorities in the Energy Policy and Conservation Act, which relate to the international energy program. These authorities provide a limited antitrust immunity for oil companies' participation in voluntary agreements to carry out the program. The authorities will expire at midnight on Friday night under the provisions of existing law.

Both Houses have passed similar legislation to extend the authorities. The House chose to extend the authorities until October 31, 1981. The Senate amendment, adopted on November 16, extends the authorities until June 30, 1980. We have been unable to work out the differences informally, but I expect that a conference could quickly resolve this matter and permit us to extend the authorities before they expire at the end of this week. The bill was unanimously reported by our committee and passed the House by voice vote under the Suspension Calendar.

The Senate originally amended this bill with a provision relating to import quotas and fees. The House sent the bill back to the Senate, finding that it was an infringement on the privileges of the Senate. The Senate amendment, which passed on November 16, and is before us, does not contain the provisions relating to import quotas and fees.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. STAGGERS, DINGELL, OTTINGER, SHARP, BROYHILL, and BROWN of Ohio.

There was no objection.

JIM WRIGHT HAS PROVIDED LEADERSHIP TO MOVE CONGRESS FORWARD

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEVITAS. Mr. Speaker, when the American people looked to the Congress of the United States for leadership in dealing with the vital energy problem facing our Nation, they found a leader. That leadership appeared in the form of our distinguished majority leader, JIM WRIGHT of Texas. In dealing with an issue which turns men to cowards, JIM WRIGHT moved into the vanguard and provided that drive, foresight, and courage and began to move the Congress forward in adopting legislation necessary for the survival of this Nation.

An article about Congressman WRIGHT appeared recently in the Atlanta Constitution, which I would like to make a part of the RECORD at this point:

[From the Atlanta Constitution, Nov. 15, 1979]

AN ENERGY DIARY: THE ISSUE "TURNS MEN TO COWARDS"

(By Seth Kantor)

WASHINGTON.—The private diary of House Majority Leader Jim Wright, D-Tex., in a June 6, 1979 entry, describes President Carter "in a mood almost approaching despondency" over "the failure to do anything adequate on energy" when Wright and other congressional leaders met with the "discouraged" President.

The unpublished diary also reflects Wright's own deep discouragements as he attempted earlier this year to convince the White House and various members of Congress to take strong steps toward independence from such foreign oil powers as Iran.

One time in early May, when the House overwhelmingly refused to give the president standby authority for gasoline rationing in the event of a serious national emergency, Wright described the loss as "bitter."

"There is something about the whole vast question of energy that seems to turn men into cowards," he wrote in the diary on May 11. "I worry that the fear of public disappointment and the temptations of cheap histrionics have a stronger attraction than the need, to me so clear, to take bold steps."

But Wright soon turned his early 1979 frustrations over the nation's foundering energy policies into personal victories.

Wright is recognized by others on Capitol Hill as the prime mover behind a package of energy reform legislation that has won House passage in a series of votes between June 26 and Nov. 1.

The diary, written in a firm longhand, reveals much of the legislative world of the 25-year congressional veteran. Sometimes it is kept on a daily basis but Wright often only has time to chronicle his thoughts while on plane rides between cities.

Wright agreed to a request by The Atlanta Constitution to examine portions of the 1979 edition of his diary, with a provision by Wright that some of his personal comments about certain other public figures not be made public.

In February, Wright expressed concern in the diary that President Carter appeared to be focusing on energy conservation policies instead of on areas of development.

As a representative of an oil-producing state, Wright was aware that environmentalist groups and others opposed to expanding oil company profits were wary of his views on energy development.

But Wright has been pushing development of new energy resources, with tax incentives for conservation, for the past six years in the House.

With a built-up reservoir of frustration over past failures when measures he sponsored reached the House floor, Wright told his diary on Feb. 12, 1979, that he anticipated getting a ride as President Carter's guest in Air Force One and that he would stress more bold action, while doubting the White House shared his views.

President Carter did share Wright's views that crude oil prices should be deregulated.

But Wright expressed his disgust on May 29 when the House Democratic caucus voted by a 2–1 margin not to support deregulation. Wright promised himself "to do something (he underscored those last two words) to increase our energy supplies."

"The best potential vehicle right now," he wrote, "seems to be a bill from the Bank-

ing Committee to amend the Defense Production Act to stimulate synthetic oil production by loan guarantees and to legislate a government guaranteed purchase of some minimum quantity of the oil from coal.

"It is the most positive thing on the horizon at the moment, and we've piddled around far too long with penny-ante efforts."

Right at that point the whole mood of Wright's diary underwent a dramatic change.

June 4 he wrote: "I'm working on a broad-based plan to promote synthetic fuels. It is so exhilerating to have a cause."

Wright has been in Congress since 1954. He has written books, traveled extensively, lectured widely and has been involved as a leader in heavy amounts of major legislation. But he wrote in his diary as if he were a young man experiencing a first-time challenge:

"People look to Congress for action," he wrote. "They'll endure temporary hardships if they see that we have a plan, that we're moving in a consistent direction toward a solution. They haven't seen much evidence of that from this congress, unfortunately.

"About all we've done has been to reject the standby rationing plan and not even take up the other conservation measures requested by the president.

"But conservation alone is puerile. It is retrenchment, alien to American character and experience. It is good to have a vehicle for advance. The Moorhead bill, reported by the banking committee, is a step in that direction. It would commit us to develop a synthetic fuels industry.

"I'm trying to prepare a broad base of support. We'll try to expand the bill on the floor."

Rep. William S. Moorhead, D-Pa., chairman of the Banking Economic Stabilization Subcommittee, authored the synthetic fuels development bill referred to by Wright.

Moorhead's bill was reasonably modest—calling for production of 500,000 barrels a day of fuel derived from coal by 1985.

Wright decided an all-out national energy-producing effort could be made to increase output to 2.5 million barrels a day.

Moorhead agreed to the idea. Wright began lobbying other House leaders with his idea, especially including Rep. John Dingell, D-Mich., chairman of the Commerce Energy and Power Subcommittee.

Dingell not only opposed the Moorhead approach but Dingell felt his own subcommittee should control the drafting of synthetic fuels legislation. Wright's staff contacted other House staff members to try and head off jurisdictional disputes that could bog down the bill to the point of continued inaction.

"I'm more emotionally committed to this than I've been to anything in many months," Wright put down in his diary on June 6.

Wright spoke out optimistically when he and other House and Senate leaders met with President Carter, but Wright said the president seemed to remain "discouraged."

On June 15, Wright met in his own office with then-Energy Secretary James Schlesinger and with Stuart Eizenstat, special assistant to the President for domestic policy.

Eizenstat expressed strong reservations about any White House support for Wright's scaled-up production bill, according to Wright's diary and other witnesses in the room.

Wright "really got angry," according to one witness. "In fact I made no effort to conceal it," Wright said in his diary.

"I reminded him that people wasting time and patience in the gasoline lines this week (June 15) expect us to do something more than just a gesture. They want this problem solved.

"I reminded him of Franklin Roosevelt's pledge in 1942 for a ship (to be built) a week and a thousand planes a month. FDR didn't wonder philosophically what might be a realistic expectation. He saw the need and resolved to meet it."

Wright added in his diary that "I'm not sure how much impression I made (on Eisenstat)."

He apparently impressed Schlesinger, though. Witnesses said Schlesinger privately congratulated Wright on what was said. The next month Schlesinger was fired by President Carter.

After compromising on a two-million barrel a day goal by 1990 and beating back attempts on the House floor by Dingell to alter the bill, the Moorhead-Wright measure won by a 368–25 vote.

"It was sweet," Wright added succinctly in his June 26 entry.

Since then Wright has captained other energy bills, which the Senate has been debating over the past several days. There are a number of basic differences in the House and Senate versions.

These will have to be dealt with in conference committees. Remembering the failures of the energy conference committee two years ago, which staggered through nine months of angry exchanges, Wright hopes to get most current differences agreed to by next month.

"We're racing the clock right now," Wright said Wednesday. "The most effective way we can lay to rest concepts in Iran and elsewhere that this nation is a helpless oil junkie is to make our move now toward energy independence."

RETIREMENT OF J. T. NORRIS, SR., DEAN OF KENTUCKY JOURNALISTS

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, last week, announcement was made in Ashland, Ky., of the retirement of J. T. Norris, Sr., as chairman of the board of the Ashland Publishing Co.

He has been associated with the Ashland Daily Independent, the largest newspaper published in my congressional district, for 58 years.

J. T. Norris, Sr., richly deserves the title of "Dean of Kentucky Journalism," for he has been a giant in a regional profession of very tall men indeed.

For many years he has been a tower of strength, supporting every move to effect the betterment of his city, his area, and his State.

He has, of course, richly deserved a season of rest and freedom from daily business concerns, but we shall certainly miss him as a force for good in eastern Kentucky.

Mr. Speaker, I include the article announcing his retirement from the November 9, 1979, edition of the Ashland Daily Independent at this point in the RECORD:

J. T. NORRIS SR., RETIRING AFTER 58 YEARS WITH ADI

J. T. Norris, 85, the "dean of Kentucky journalists" and a man associated with the Ashland Daily Independent 58 years, will retire from his post as board chairman of Ashland Publishing Co., effective with his departure tomorrow for a winter vacation in Arizona.

He was one of the original incorporators of Ashland Publishing Co. in July, 1921. He is a native of Augusta, Ky., a graduate of Centre College, and served in the U.S. Marine Corps in World Wars I and II.

Norris was honored in 1970 by the Kiwanis Club here as "Man of the Half-Century." The Kentucky Press Association presented him the Edwards M. Templin Award in 1971 for service to journalism and community. He received an alumni recognition award in 1969 from Centre College and, earlier this year, the college gave him an honorary doctorate in journalism. In 1976, Ashland Typographical Union Local 787 made him a lifetime honorary chapel member.

Norris served as vice president and president of the publishing company and editor of the *Independent* before becoming board chairman in 1964.

His association with the *Independent* began in 1921, when he came to Ashland after briefly operating and then selling the *Pendleton County Democrat* in Falmouth, Ky. He began his career in Ashland as vice president in charge of circulation.

The same year, the Ashland Publishing Co. was formed with the late Benjamin F. Forgey, Norris, U.S. Sen. Ben Williamson, John E. Buckingham, Davis E. Geiger and Paul J. Hughes as stockholders. The corporation purchased the stock of the Ashland Independent Publishing Co., acquiring all the interest of George F. Ginn, who had acquired it in 1911 from Col. G. F. Friel.

In 1924, Norris, Forgey, and Ralph R. Mulligan of New York bought the interest of the other stockholders, and in the subsequent reorganization, Forgey became president and editor and Norris was named vice president and associate editor.

He remained in that position until 1952 when he became president and editor, and Forgey was named board chairman. In 1964, Norris was elected board chairman.

While he served in that position, the *Independent* changed from letterpress to web offset printing in May, 1971. The newspaper expanded into an adjoining 22,500-square-foot building and installed a new seven-unit, 56-page press. Modern composition equipment was also added. The newspaper changed to six-column format.

The newspaper, in 1977, installed a computer system in the editorial and classified advertising departments as video display terminals replaced typewriters.

Norris's son, J. T. Norris, Jr., formerly president and editor, will continue to serve as consultant to the company until the end of the year.●

U.S. ACTIONS AT TIME OF IRANIAN CHANGE OF GOVERNMENT NEED CLARIFICATION

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, at this point in United States-Iranian relations all of our attention is focused, as it should be, on securing the safe release of the American hostages in Tehran.

I support President Carter's warning to the Ayatollah Khomeini about harming any of the hostages. The American people are united on this as they have been on very few issues since World War II. The Ayatollah should have nomisconceptions about the resolve of all the American people in opposition to this callous affront to the United States and the basic principles of international behavior.

Khomeini's actions in holding Ameri-

can citizens as hostages and his incitement to attacks against the United States—as in Pakistan, Turkey and India—is tantamount to an act of war. Khomeini is sadly mistaken if he thinks the American people will sit still for this.

Once the issue of the American hostages is resolved, however, I believe the sequence of events leading to the takeover of the Embassy should be investigated. The question of the U.S. role at the time of the change of Government in Iran is still unclear and, as suggested in today's commentary by Evans and Novak, the administration's action in sending General Huyser to Iran needs to be clarified.

WHO TOPPLED THE SHAH?

(By Rowland Evans and Robert Novak)

Shortly after the second seizure of the U.S. Embassy in Tehran on Nov. 4, Gen. Alexander Haig, in private talks with politicians and businessmen, accused the Carter administration of assigning his NATO deputy to hasten the shah's fall as Iran's ruler a year ago.

That was given by Haig as a major reason for his resignation in July as NATO supreme commander and his retirement from the Army. Never before has undermining the shah been listed as a purpose of the shadowy mission to Tehran early last January by Air Force Maj. Gen. Robert E. Huyser, Haig's deputy.

Haig, who is eyeing a long-shot bid for the Republican presidential nomination, has not gone public with his sensational charge. When asked by Washington newsmen over breakfast Nov. 21 why he had left NATO and the Army, Haig never mentioned the Huyser mission. Nevertheless, his private chats have fired the opening round of a battle with profound political implications: "Who lost Iran?"

Whether or not Haig's interpretation of President Carter's motives is accepted, he is supplying previously unknown information about upper-level Washington intrigue as the shah toppled. Here began the administration's policy of making common cause with revolutionary impulses at the expense of old allies.

The policy took effect with a transatlantic telephone call early last January from Gen. David Jones, chairman of the Joint Chiefs of Staff, to Haig at NATO headquarters in Mons, Belgium. Haig learned for the first time that the Carter administration planned to dispatch Huyser, who had exceptional contacts with the Iranian military and the royal palace, to Tehran.

Huyser's mission, as explained by Jones to Haig, was "to keep the Iranian military united and effective." That meant urging the Iranian generals not to attempt a coup against the shaky new civilian regime of Shahpour Bakhtiar—the description of the mission given the press.

Haig regarded this as a smoke screen. Secretary of State Cyrus Vance, in ascendance over national security adviser Zbigniew Brzenzinski, wanted the shah quickly removed from power. To Haig, the Huyser mission promoted this plan. He informed Jones on the telephone that night that he did not want himself, his deputy or the U.S. military involved in what he viewed as a specious undertaking.

The next morning, word came to Mons from Washington that Haig would have to live with it, like it or not. Deputy Secretary of Defense Charles Duncan, acting secretary during Harold Brown's temporary absence, overruled Haig. Direct orders were transmitted from Duncan to Haig's deputy; Haig was odd man out.

Those secret orders are described as "ambiguous" by those who have seen them. The widely respected Huyser is reported by colleagues to have been unhappy with his task. But as a good soldier, he did not complain then or now (he is currently on active duty at Scott Air Force Base, Ill.).

Haig's theory that Huyser was an instrument of U.S. pressure to drop the shah is strengthened by this fact: his mission coincided with leaked reports out of Washington that U.S. policy-makers finally had concluded the shah must go. U.S. policy at this time was that Bakhtiar could gain influence over the military and win over the Moslem radicals only if the shah were out of the picture.

Whether or not because of Huyser's carrying out his orders, there was no military coup. That did not save Bakhtiar's short-lived regime from being supplanted by Ayatollah Ruhollab Khomeini. Nor did the Carter policy achieve its stated purpose of keeping Iran's officer corps intact. While many officers were executed by Islamic revolutionaries, the chief of staff contacted by Huyser—Gen. Abbas Gherabaghi—is believed to have cooperated with the mullahs running the revolution.

Nobody knows whether a military coup would have brought Iran stability. There are senior U.S. Army officers who believe that, had it not been for the mission imposed on Huyser, the Iranian military would have seized power, exiled the shah (perhaps letting him return as a ceremonial monarch) and established a moderate, pro-Western regime. That theory may well understate the volcanic fury of Khomeini's followers.

The point of Haig's revelations is that the administration's plea that it could do nothing to save the shah is not the whole truth. As with Anastasio Somoza in Nicaragua, the United States contributed to the demise of a repressive authoritarian who had been a longtime ally of this country in hopes of winning favor with his successors. It is that policy, rather than the president's day-to-day conduct of the current crisis, that is most vulnerable to future investigation.

□ 1310

VACATING SPECIAL ORDER

Mr. CARNEY. Mr. Speaker, I ask unanimous consent to postpone my previous special order until the conclusion of tomorrow's business day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PRIVACY OF COIN COLLECTORS TO BE PROTECTED BY THE GENERAL SERVICES ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on February 13, 1979, the House passed H.R. 1902, a bill I introduced which authorizes the General Services Administration to sell nearly 1 million silver dollars that the Government still holds. The bill became law on March 7, 1979. The coins were minted at the Carson City Mint in the late 19th century and were part of nearly 3 million coins discovered in a Treasury vault in 1964. Between 1972 and 1974, the General Services Administration had sold over 2 million of the silver dollars.

The public interest in the sale of these coins has been tremendous. Nearly 200,000 people have written already to the General Services Administration asking for information about the sale of these coins, even though they will not be sold until February 1980.

Following the earlier sales, the General Services Administration sold lists containing the names and addresses of purchasers of these coins. Many collectors were upset by this action. I became concerned that the General Services Administration would do the same this time. As a result, I wrote to Administrator Rowland Freeman, pointing out that this list of coin buyers would be a valuable tool for any burglar or criminal to have. I was also concerned that release of this list would subject the consumers to bombardment with dozens of unwanted solicitations and promotions.

I am glad to report that Administrator Freeman has written and informed me that the General Services Administration concurs with my belief that release of this list would be a clearly unwarranted invasion of the personal privacy of the purchasers. Mr. Freeman also agrees that unlimited access to this list could endanger the physical security of the customers and their homes.

Mr. Speaker, I am pleased that the General Services Administration has accepted my suggestion that the privacy of these purchasers should be honored. I want to thank Administrator Freeman for sharing my concern over this matter and in acting in the best interests of the American consumer and coin collector.●

A TEST OF COURAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

● Mr. ALEXANDER. Mr. Speaker, for the past 3 weeks, the United States has been forced to a test of courage in its confrontation with the Ayatollah Khomeini, the spiritual and political leader of the Islamic Republic of Iran.

For 3 tense weeks, our people have anxiously awaited some sign of reason from the ayatollah and his radical student followers. For 3 tense weeks, the American people have been disappointed.

The irrational and lawless occupation of the U.S. Embassy in Tehran continues. Forty-nine Americans remain hostages to the unacceptable demand that the U.S. Government disregard international law by returning the deposed Shah of Iran to face certain death.

Because we defied that demand the ayatollah has threatened to try the American hostages as spies—heightening the anguish and uncertainty of the hostages and the American people alike.

It is certain that the Ayatollah Khomeini thought our people and their lead-

ers to be so weak and greedy for Iranian oil that we would simply roll over in abject surrender to his outrageous demands. But he was mistaken.

President Carter made that clear some days ago when he told the world we would no longer buy Iranian oil.

It was an act of restraint.

He made it clear when he responded to the Ayatollah's threat to precipitate a financial crisis by withdrawing $12 billion in Iranian deposits from United States' banks. The President took action to merely freeze rather than seize those Iranian assets.

It was an act of restraint.

It was an act of restraint when the President restated our right to take military action against the Islamic Republic of Iran if the hostages should be harmed.

In fact, President Carter has acted with restraint and sanity in the face of provocation that would have incited a weaker leader to take ill-considered actions that could have led to disaster for the hostages and for the Nation at large. He has acted with restraint and determination in the face of threats that might have caused a weaker man to knuckle under.

And now the Ayatollah has gone a step further in his continuing campaign to test the strength of character of the American people. He has publicly repudiated the debts owed by his government to certain foreign nations and commercial interests.

In so doing, he hopes to disrupt world commerce by rendering the principle of full faith and credit among sovereign nations invalid in those instances where political differences exist among nations.

For that reason, today I have introduced a resolution in the House of Representatives which I believe will serve notice that the U.S. Congress is united in its determination not to yield to economic blackmail.

The resolution, if adopted, will direct the President to take legal action in the appropriate courts to have the Government of Iran declared in default of its indebtedness to the United States in the amount of $472 million. The action, if successful, will allow seizure of currently frozen Iranian assets in this country to be used to repay the full amount of the debt. It would also subject the remaining assets to legal action by the United States to seek compensation and damages for U.S. property lost or destroyed in Iran or for reparation on behalf of the hostages and their families.

The legal bases for the resolution are two in number:

First, as of June 30, this year, the Islamic Republic of Iran was $38 million in arrears in payment of its debt.

Second, the repudiation of its debt by the Iranian Government is legal grounds for a declaration of default on the entire amount of the debt.

I have no illusions that adoption of the resolution by the Congress will cause a change of heart among irrational elements in Iran. I wish it were possible to say that seizure of the Iranian assets in this country would bring about the immediate release of our hostages. But neither do I harbor the illusion that doing nothing will alter the Ayatollah's strategy of extortion.

And his strategy is clear. He is waging unrestricted economic and psychological warfare against the United States of America.

To save his falling regime, he has whipped his followers into a frenzy of hatred toward America and its leaders. He has sought to foment that hatred among other Muslim nations by lies and deceit.

His public allegations that the United States was responsible for the storming of the Holy Grand Mosque in Mecca, Saudi Arabia, led directly to the occupation and destruction of the U.S. Embassy in Islamabad, Pakistan.

He has expropriated American property, nationalized American industry in Iran without just compensation and has caused American visitors and officals to be terrorized in the streets of Iranian cities. But most important, he has demonstrated a profound contempt for international law.

His threat to try the American diplomats and other hostages as spies—with the implicit threat of their execution—puts him squarely outside the law of nations. His demonstrated lack of respect for human rights puts him squarely outside his own Islamic laws. His subjecting of innocent men and women to the agonies of a terrorist kidnaping puts him squarely outside the laws of human decency.

I see no reason why the Ayatollah Khomeini ought not to be considered an international outlaw.

I have said on other occasions that I applauded the President's determination to bring this situation to a peaceful resolution. The safety of the hostages is paramount. But as the situation worsens, and if it becomes clear that reason cannot prevail in the face of irrationality, then I support whatever harsher methods might be necessary to demonstrate to the ayatollah and his followers that the United States of America is not powerless to resist lawlessness and extortion.●

CUT IN PRIME RATE BY BANKERS TRUST CO.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, Bankers Trust Co. today reduced its prime lending rate from 15¾ percent to 15½ percent. I hope other banks will swiftly follow the lead of Bankers Trust and begin reducing their prime rates from present unnecessarily high levels.

There is no justification for the prime rate remaining at these levels when short-term interest rates have peaked and are heading downward, reducing the cost of funds to commercial banks. For instance, the average Federal funds rate has fallen from 15.61 percent during the last week of October to around 13 percent now. Three-month Treasury bills have fallen from a peak of 12.8 percent in mid-October to under 12 percent.

To continue holding prime rates at record levels while short-term rates are falling simply fattens bank profits while jeopardizing the prospects of reducing inflation without precipitating a deep recession. At present levels, prime rates raise the costs of all business unnecessarily, with particular impact on small business, on housing, and on the purchase of capital equipment needed to increase productivity.

Interest rates should come down.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FAZIO) is recognized for 5 minutes.

● Mr. FAZIO. Mr. Speaker, due to a previous commitment on the west coast I was unable to remain in the House long enough for the final vote on hospital cost containment legislation (H.R. 2626), rollcall No. 669, Thursday, November 15. I had requested that I be paired but pairs were not available.

Had I been able to be present at that point, I would have voted in favor of the bill. I would be most appreciative if my position on this matter could be officially recorded in the CONGRESSIONAL RECORD.

Thank you very much.●

A COOL PRESIDENT STAYS IN THE KITCHEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 5 minutes.

● Mr. VAN DEERLIN. Mr. Speaker, in the last 3 weeks we have been privileged to watch a President of great moral and intellectual strength in action.

Refusing to be provoked by political opponents and commentators, Mr. Carter has resisted temptations to turn the Iranian crisis into political theater. The President has calmly considered his limited options and pressed forward with a consistent diplomatic effort to resolve the situation.

To those who never learned the lessons of Vietnam and Cambodia, this is not dramatic enough. Yet, it seems clear to me we are now seeing real leadership.

I offer for the RECORD an editorial page column on the situation by Joseph C. Harsch, in the Christian Science Monitor:

LIKE TWO PLAYS ON SAME STAGE: CARTER'S CRISIS MANAGEMENT STEALS HEADLINES FROM POLITICAL FOES

(By Joseph C. Harsch)

The American political scene presented a fascinating spectacle during the past week. It was like a stage with two different and conflicting plays going on at the same time.

In one play were the politicians who hope to replace President Carter at the White House next year. They were acting out their roles and speaking their lines in a play which assumes that Carter is a bumbling incompetent, incapable of handling the affairs of the United States in a crisis. But right there in the midst of all of them was Carter managing those affairs in a quiet prudent and competent manner.

It was Carter's most serious international crisis. On Nov. 4 a mob of "students" had broken into the American Embassy in Tehran and had taken some 60 Americans as hostages. Their lives were in immediate and gravest danger. While demagogues bellowed for "bold" and "drastic" action, Carter put first the lives of those people.

He had little to work with. Military action, or even the threat of military action, probably would have led to the immediate massacre of the hostages. No rational way existed of rescuing the hostages by some sudden airborne operation, as at Entebbe. They were being held in a building in the middle of Tehran, far from any airport, and far from the sea, too far from friendly airfields for helicopters.

Carter's only tools were patience and diplomacy. Patience was necessary to safeguard the lives of the hostages. Diplomacy could be useful in isolating Iran and in trying to bring whatever leadership exists there around to a realization that this country had more to gain than lose by behaving responsibly.

The end of the story is not in sight. But world opinion and the actions of other countries were beginning to operate on the situation.

Mexico withdrew its embassy staff to be in a safe condition should the shah be moved back to that country from New York. President Anwar Sadat of Egypt denounced the actions of the Iranian mob and its nominal leader, the ayatollah. That underlined the fact that Iran could not count on a rallying of Islam to his support.

Perhaps more importantly, the president and his staff arranged with other oil-producing states to make up for the loss of oil shipments from Iran. Once they knew they had alternate sources of oil, they announced that they would allow no more Iranian oil to enter the United States. Carter was getting cooperation from oil producers and other major oil consumers.

So careful and so effective were all those opening moves that few prominent political leaders of any party or constituency criticized them. Most had to profess to pledge their support. Yet while refraining from interfering with the president's management of the Iranian crisis, the challengers who hope to displace Carter from the White House next year continued to speak the lines written for them before this crisis broke.

Sen. Edward Kennedy of Massachusetts went off on the campaign trial offering new "leadership." Ronald Reagan of California announced his readiness to heal "the crisis of confidence" which he believes is afflicting the United States. Gov. Jerry Brown of California traveled and talked of his own willingness to provide new leadership.

Each was assuming that he could handle a crisis better than could Carter. Their offers of help to their country would have been more interesting had they been spoken against a backdrop of presidential waffling and fumbling. But the fact was that Carter's quiet and nonobtrusive management of the Iranian crisis took the headline play away from his challengers and pushed their assumptions and their offerings off the front pages.

The challengers were speaking lines written both before this crisis happened and before the reorganization of the White House had been tested. That reorganization dates from mid-July. It was beginning to function around mid-September. But it takes a real crisis to test the effectiveness of an organization.

Perhaps it can be faulted for having allowed the deposted Shah of Iran to be flown to New York for medical treatment. In retrospect, that action, authorized reluctantly, led into the current crisis. Yet how many who criticize that deed now would decide differently had they been in Carter's shoes? He was told that the shah was desperately ill and that New York City was the only place where he could receive the latest and most effective treatment. Would you have said no under the circumstances?

There is an element of the inevitability of classic Greek tragedy in the whole story. Carter must try to extricate the country from the results of something that happened long before his time. Will he succeed?

We do not know the end of the story. We can see that it is providing Carter with an opportunity to show what his reorganized White House can do in a crisis. If it also confounds his challengers, the irony would delight any Greek playwright.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JEFFORDS (at the request of Mr. RHODES), for November 26 and 27, 1979, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. CARNEY, a special order for 30 minutes, on today.

(The following Members (at the request of Mr. MATHIS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ALEXANDER, for 15 minutes, today.

Mr. REUSS, for 5 minutes, today.

Mr. FAZIO, for 5 minutes, today.

Mr. VAN DEERLIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GRASSLEY, and to include extraneous matter, on previous legislation.

(The following Members (at the request of Mr. WHITTAKER) and to include extraneous matter:)

Mr. SENSENBRENNER.

Mr. FINDLEY.

(The following Members (at the request of Mr. MATHIS) and to include extraneous matter:)

Mr. BENJAMIN.

Mr. ASPIN.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. HARRIS.

Mr. DANIELSON.

Mr. EDWARDS of California.

Mr. FITHIAN.

Mr. MAZZOLI.

Mr. SKELTON.

Mr. OBERSTAR.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on November 20, 1979, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 2282. To amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation paid to veterans with service-connected disabilities and in the rates of dependency and indemnity compensation paid to survivors of veterans, to modify certain veterans' life insurance programs, and to exempt Veterans' Administration home loans from State and antiusury laws; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes;

H.R. 4391. Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 4440. Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5811. To allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately; and

H.J. Res. 440. Making further continuing appropriations for the fiscal year 1980, and for other purposes.

ADJOURNMENT

Mr. MATHIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Tuesday November 27, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2867. A letter from the Architect of the Capitol, transmitting a report on his expenditures during the period April 1, 1979, through September 30, 1979, pursuant to section 105(b) of Public Law 88–454; to the Committee on Appropriations.

2868. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period November 15, 1979, to February 15, 1980, pursuant to 10 USC 139; to the Committee on Armed Services.

2869. A letter from the Under Secretary of the Air Force, transmitting a draft of proposed legislation to create the office of Deputy Judge Advocate General of the Department of the Air Force, and for other purposes; to the Committee on Armed Services.

2870. A letter from the Secretary of Housing and Urban Development, transmitting the final report on housing displacement, pursuant to section 902 of Public Law 95–557; to the Committee on Banking, Finance and Urban Affairs.

2871. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting an addition to the previously-submitted report on arms sales proposals considered eligible for approval during fiscal year 1980, pursuant to section 25(d) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

2872. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the impact on the foreign relations of the United States of the reports required by the Foreign Assistance Act of 1961 on the human rights practices of foreign governments, pursuant to section 504(b) of Public Law 96–53; to the Committee on Foreign Affairs.

2873. A letter from the Administrator, Agency for International Development, transmitting a report on the status of the contingency fund for the fourth quarter of fiscal year 1979, pursuant to section 451(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2874. A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting the annual report of the Commission for calendar year 1978; to the Committee on Foreign Affairs.

2875. A letter from the Assistant Secretary of the Treasury for Administration, transmitting a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2876. A letter from the Deputy Administrator of Veterans' Affairs, transmitting a report on the agency's disposal of foreign excess property during fiscal year 1979, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2877. A letter from the Secretary of the Interior, transmitting the annual report for fiscal year 1979 on the administration of the Guam development fund, pursuant to section 6 of Public Law 90–601; to the Committee on Interior and Insular Affairs.

2878. A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to change the name of Moores Creek National Military Park to Moores Creek National Battlefield; to the Committee on Interior and Insular Affairs.

2879. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon; to the Committee on Interior and Insular Affairs.

2880. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the primary health care needs of each of the specific tribes of American Indians and Alaska Natives, pursuant to section 116(b) of Public Law 95–626; to the Committee on Interstate and Foreign Commerce.

2881. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to provide protection for the Cabinet Department Heads and their second ranking officers, and for other purposes; to the Committee on the Judiciary.

2882. A letter from the Director, Administrative Office of the United States Courts, transmitting a report on the suspension of Speedy Trial Act time limits in the Eastern District of North Carolina, pursuant to 18 U.S.C. 3174(d); to the Committee on the Judiciary.

2883. A letter from the Comptroller General of the United States; transmitting a report and recommendation concerning the claim of Campanella Construction Co., Inc., for payment for work done under contract with the Department of the Army, pursuant to the act of April 10, 1928 (45 Stat. 413, 31 U.S.C. 236); to the Committee on the Judiciary.

2884. A letter from the Chairman, Copyright Royalty Tribunal, transmitting the second annual report of the Tribunal, covering fiscal year 1979, pursuant to 17 U.S.C. 808; to the Committee on the Judiciary.

2885. A letter from the Adjutant General, United Spanish War Veterans, transmitting the proceedings of the stated convention of the 80th National Encampment, United Spanish War Veterans, Inc. held in Des Moines, Iowa, September 16–21, 1978 (H. Doc. No. 96–232); to the Committee on Veterans' Affairs and ordered to be printed.

2886. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the 17th report on abnormal occurrences at licensed nuclear facilities, covering the second calendar quarter of 1979, pursuant to section 208 of Public Law 93–438; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

SUBSEQUENT ACTION ON BILLS INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X,

H.R. 4660, a bill to amend the Small Business Act and an act to amend the Small Business Act (Public Law 94–305, 90 Stat. 669) to provide regulatory flexibility for small businesses and small organizations to minimize unnecessary burdens in complying with Federal rules and reporting requirements, which was referred to the Committee on the Judiciary, extended for an additional period ending not later than February 15, 1980.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota (for himself and Mr. VAN DEERLIN):

H.R. 5947. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour; to the Committee on Banking, Finance and Urban Affairs.

By Mr. APPLEGATE:

H.R. 5948. A bill to amend the Immigration and Nationality Act of 1952, Title 8, U.S.C. Section 1251 relating to the general classes of deportable aliens; to the Committee on the Judiciary.

By Mr. HARRIS (for himself and Mr. RODINO):

H.R. 5949. A bill to amend the Antitrust Civil Process Act to authorize the Department of Justice to use agents in connection with the enforcement of the antitrust laws; to the Committee on the Judiciary.

By Mr. ROBERTS (by request):

H.R. 5950. A bill to amend title 38, United States Code, to increase from $40,000 to $60,000 the maximum amount of mortgage protection life insurance which the Veterans' Administration may provide veterans with service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 5951. A bill to amend title 38, United States Code, to provide an incentive for severely disabled veterans entitled to an aid and attendance allowance for non-service-connected disabilities to live outside of an institutional setting; to the Committee on Veterans' Affairs.

By Mr. SCHULZE:

H.R. 5952. A bill to continue until the close of June 30, 1982, the existing suspension of duties on concentrate of poppy straw; to the Committee on Ways and Means.

By Mrs. SPELLMAN:

H.R. 5953. A bill to preserve, protect, and maintain the original boundary stones of the Nation's Capital; to the Committee on Interior and Insular Affairs.

By Mr. ZABLOCKI (for himself, Mr. FASCELL, and Mr. YATRON) (by request):

H.R. 5954. A bill to amend the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America, with special attention to re-establishing conditions of stability and growth in the Nicaraguan economy, and to provide additional economic support for other countries in Central America and the Caribbean, and for other purposes; to the Committee on Foreign Affairs.

By Mr. ALEXANDER:

H. Res. 491. Resolution asking that the assets owned by the Islamic Republic of Iran within the jurisdiction of the United States be seized in payment of debts owed by the Islamic Republic of Iran to the United States of America; in reparation for damages to United States property under the protection of the Islamic Republic of Iran, and for compensation to American citizens illegally held hostage by agents of the government of the Islamic Republic of Iran; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 628: Mr. SHANNON.

H.R. 2289: Mr. WIRTH.

H.J. Res. 407: Mr. GAYDOS.

H. Con Res. 212: Mr. RUNNELS, Mr. ST GERMAIN, Mr. COURTER, Mr. ERTEL, Mr. MOFFETT, Mr. COELHO, Mr. DIXON, Mr. DINGELL, Mr. SAWYER, Mr. OTTINGER, and Mr. WAXMAN.

H. Res. 446: Mr. BINGHAM, Mr. PATTERSON, Mr. DOWNEY, Mr. WEAVER, and Mr. ZABLOCKI.

PETITION, ETC.

Under clause 1 of rule XXIII,

225. The SPEAKER presented a petition of Jack Alotto, and others, relative to American hostages in Iran; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5461

By Mr. BEARD of Tennessee:

—Page 2, line 3, strike out "January 15" and insert in lieu thereof "third Sunday in January".

Page 2, after line 3, insert the following new section:

SEC. 2. Section 6103 of title 5, United States Code, is amended by redesignating subsection (c) as subsection (b) and by inserting after subsection (b) the following new subsection:

"(d) For the purpose of statutes and Executive orders relating to pay and leave of employees, the birthday of Martin Luther King, Junior, the third Sunday in January, shall not be considered a legal public holiday.".

SENATE—*Monday, November 26, 1979*

(Legislative day of Thursday, November 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Dear Lord and Father of mankind, grant us faith to believe that more things are wrought by prayer than this world dreams of. May the prayers of our hearts transcend the words of our lips. Read our hearts, test our longings, have regard for our devotion. Equip us to labor in this place at this time knowing that the destiny of men and nations may turn on what we say and how we say it, what we do and the way we do it. Work Thy will among the nations bringing release to the captives, justice to the oppressed, and peace to the whole world. And to Thee shall be the praise and the thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 26, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORT OF COMMITTEE ON FOREIGN RELATIONS ON SALT II

Mr. ROBERT C. BYRD. Mr. President, over the Thanksgiving holiday I took occasion to read the report of the Committee on Foreign Relations dealing with the SALT II treaty. That report is a very thorough, informative, and comprehensive report. I have been impressed from the beginning by the thorough conduct of the hearings conducted by the Foreign Relations Committee under the chairmanship of Mr. CHURCH and the ranking minority leadership of Mr. JAVITS.

A reading of this report can only impress the reader with that thorough procedure utilized by the Foreign Relations Committee in making its judgment.

I recommend that all Senators who have not yet made a final decision on the treaty, and there are many in that category, read this report in its entirety before they make a decision. It is illuminating.

The committee hearings extended over a period of several weeks, as my colleagues know, and the markup itself took several days. Many, many witnesses were heard both in public and in executive sessions.

The committee in its markup adopted 23 amendments, I suppose we could call them, to the Resolution of Ratification. The committee did not resort to the usual categorization of such amendments by use of the terms reservations, understandings, conditions, et cetera, but it laid out a format of three categories into which the various reservations would follow.

One of these categories would require the consent, I suppose that word would be appropriate, or the acquiescence, or agreement of the Soviet Union before the treaty would go into effect. And there were two such amendments in that category.

Another category would require that the Soviet Union be notified of the content of the provision, but the consent and/or agreement by the Soviet Union would not be required.

The third category, which is number one in the series of three categories, would require only that our own Government, our own executive branch, take notice. Nine of the amendments were rejected.

I say that it will be an education in itself for any individual who wishes to know the contents of the treaty and the various meanings of the various articles, and there are 19 of them, to read this committee report.

I take this occasion, therefore, to commend the chairman, Mr. CHURCH, the ranking minority member, Mr. JAVITS, and all the members on both sides in the committee. Both the minority and the majority, the opponents and the proponents were most cooperative and most considerate of each others' viewpoints.

I also commend again, as I say, the reading of this report to Senators who have not yet made up their minds.

I have studied the transcripts of the hearings. I have read the treaty a number of times. I am not an expert on it. But I studied the treaties and the transcripts and other documents for more than 4 months before I reached my own decision.

Again I urge those Senators who have not yet decided to read this committee report. It will not only be good reading but it will give them a good basis for whatever decision they may reach.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. PROXMIRE. Mr. President, I thank the majority leader for calling the attention of the Senate to the Foreign Relations Committee report. I think too often in this body we fail to study the reports which give us the results of the hearings that are held by committees and which should be the principal basis for our decision.

The Senator is correct in calling attention to this most remarkable report, which is very comprehensive, with outstandingly qualified witnesses on both sides who appeared for and against the treaty. It is an excellent analysis, and it is a very, very thorough report on what will be perhaps the most important decision we make this year in this body, a decision that is going to affect the security of this country and the peace of the world. I think the majority leader has rendered a great service to this body by calling our attention to it and by asking Senators to read it.

As I understand, it was a thorough line-by-line analysis of this treaty.

Mr. ROBERT C. BYRD. That is true.

Mr. PROXMIRE. As one who has not made up his mind I am sure this is going to be very helpful to me.

Mr. ROBERT C. BYRD. It is not only a line-by-line layout of the treaty, but also it has the executive branch comments with respect to each article, and also has the Foreign Relations Committee staff comments in relation to each article.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I thank the distinguished Senator for his comments, and I am glad he joined me in feeling that this is a thorough report and one which ought to be read by Senators, if they have not already reached a judgment—and some have, and that is their right—those who still have not reached a final judgment, and I think their time would be well spent in reading this report.

Now, Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes.

MEETING OF THE U.N. SECURITY COUNCIL ON IRAN

Mr. ROBERT C. BYRD. An urgent meeting of the U.N. Security Council has been called by Secretary General Waldheim to deal with the continuing problems in Iran.

I welcome this meeting of the U.N. Security Council and hope that it will make clear the strong international support for the release of the Americans being held hostage in Iran and the opposition to Iran's actions.

This situation warrants strong, active support for the United States by the international community. The takeover of the Embassy in Tehran and the holding of the hostages violates all precepts of international law and diplomatic practice.

The people of this Nation feel very strongly about this emotional and explosive issue. Our primary concern at this point continues to be obtaining the release of those 49 hostages who have been held in Tehran since November 4.

All of the American people welcomed the 13 Americans who were released and returned to this country on Thanksgiving Day. We stand united in wanting to see those remaining 49 hostages safely returned.

It has been encouraging to hear statements of international support for the release of the hostages, such as last week's statement by the Council of Europe. The Council, which is composed of 21 member nations, condemned the hostage taking as a flagrant violation of international law and urged the Iranian authorities to put an end to a situation which dangerously impairs international relations.

There can be no question that this situation does have potentially serious and dangerous ramifications in international affairs—clearly justifying the urgent meeting of the Security Council.

Already we have seen evidence of how rumor and misinformation about this volatile situation can lead to violence and tragedy, such as occurred in Pakistan last week. Reports that the United States was somehow implicated in the invasion of the holiest Moslem religious site, the Grand Mosque in Mecca, led to anti-American demonstrations in several Moslem countries. In fact, such reports of U.S. involvement were, of course, totally without justification. Indeed, the Grand Mosque was apparently attacked by a group of Moslem fanatics. Reportedly, Saudi Arabian troops have now regained control in Mecca.

Demagogic statements and charges, with no basis in fact, can further fuel this highly-charged situation.

Thus, we must continue our efforts to bring international pressure to see the hostages released. The Carter administration states that it is utilizing all available channels for this purpose.

While we are concentrating our efforts on bringing an end to this gross outrage in Iran, we must also be considering steps we should take to strengthen our own position and decrease our potential vulnerability to bizarre and vindictive actions by others.

I have spoken before of the need to strengthen our capability to react quickly to situations overseas, which means improving our communications and logistical systems and overall military preparedness. I believe that strong support for such improvements is increasingly evident.

I have also repeatedly emphasized the need for this Nation to reduce its vulnerability in the energy area. We must minimize the degree to which we are dependent on the whims of other nations, on developments which are really beyond our control. The Senate has taken some important steps in bolstering our Nation's energy policy. The events of recent weeks in Iran and elsewhere in the Persian Gulf area have underlined the absolute necessity of moving ahead with a broad-based energy program in this country. This week the Senate will be continuing its consideration of important energy-related legislation which will help strengthen our Nation.

The ACTING PRESIDENT pro tempore. The majority leader's time has expired.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. STEVENS. Mr. President, I yield such time as he may require of my time to the Senator from Virginia (Mr. WARNER).

REPORT ON BREAKFAST MEETING WITH FORMER DEPARTMENT OF DEFENSE OFFICIALS

Mr. WARNER. Mr. President, I thank the Senator.

I wish to commend the distinguished majority leader for bringing to the attention of the Senate the report of the Foreign Relations Committee. I likewise have studied it with great interest and find it a valuable contribution to this subject so vital to our Nation.

I wish to inform my colleagues concerning a breakfast meeting on SALT II held this morning in the Mansfield Room. About a dozen Senators hosted the former Secretary of Defense, Mr. Rumsfeld, the former Deputy Secretary of Defense, Mr. Clements, now Governor of Texas, together with the three service Secretaries, Middendorf, Navy; Hoffman, Army; and Reed, Air Force, who were the team in the Department of Defense at the time of the Vladivostok consideration of SALT.

I ask unanimous consent that their prepared release be included in today's RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

A STATEMENT ON THE SALT II ACCORDS

This week the question of ratification of SALT II may reach the floor of the United States Senate. The five of us, as the senior civilians in the Department of Defense, were responsible to the President for national security matters until January 20, 1977. As a result, we feel that the Senate and the American people should have our considered views of the pending SALT II proposals.

Each of us was involved in the arms limitations considerations having spent hundreds of hours grappling with these complex issues. All of us hoped the SALT process would bring forth a suitable treaty. We hoped an agreement could be achieved about which we could be as confident that the U.S. security would be enhanced as the Soviets appear to believe that the pending agreement will increase theirs.

We have considered the treaty as it finally emerged, examined the changing strategic balance, and made our individual views known to the Senate and the American people in some detail. Copies of our statements are available here this morning.

In summary, it is our unanimous view that the pending SALT II Treaty, the Protocol, and the various "understandings" do not merit Senate approval. The proposed bargain is a bad one for the United States—and by a significant margin.

We believe that in the mid-seventies the United States could have achieved a treaty comparable to that now before the Senate. It was our view then that such a treaty would not be in the best interests of the United States. It is even more our view today.

A number of able individuals have agreed that this is not a good treaty, but they have taken the position that this treaty, despite its defects, is better than none at all. We strongly disagree.

This is the time to face up to reality, to face the facts of our military posture vis-a-vis the Soviet Union. We are convinced that ratification of SALT II will postpone that reckoning, and that the reckoning, whenever it occurs, is bound to have an impact on U.S.-Soviet relationships whether or not SALT II has been ratified. Whenever the Soviets come to understand that their 15-year military buildup will no longer be abetted by U.S. force reductions and weapons cancellations there is bound to be a debate on that hard fact. Better to face that reality now, while the Soviets are gaining the upper hand, than after several more years when that Soviet upper hand has grown to an iron fist.

Our Nation's situation is more dangerous today than it has been any time since Neville Chamberlain left Munich setting the stage for World War II.

Since World War II, the U.S. has successively moved from exclusive control of nuclear weapons to overwhelming superiority to essential equivalence and now to certain vulnerability by the early 1980's. The massive shift in power—strategic, theater nuclear, conventional and naval—is having the inevitable effect of injecting a fundamental instability into the world equation.

I. SALT II IN RELATION TO NATO

(Donald Rumsfeld)

Several arguments have been put forward by the present Administration in their efforts to gain support for SALT II. A recent claim is that Senate defeat would disrupt, if not destroy, the NATO Alliance. Having dealt

with NATO in a variety of capacities, beginning in 1973 as U.S. Ambassador to NATO, I find such a foreboding forecast irresponsible.

Our NATO allies have consistently looked to the United States for leadership on nuclear matters, particularly on U.S.-Soviet strategic arms. Since the current Administration is so vigorously supportive of this SALT II agreement, it comes as no surprise that European officials have followed suit publicly. Nonetheless, many knowledgeable Europeans are concerned about SALT II and what it portends for future arms agreements. This agreement would be an unattractive stepping off point for SALT III negotiations.

I have more confidence in NATO as an institution and in our allies as members than do those alleging that NATO would unravel in the wake of a Senate decision that SALT II should be renegotiated. The Alliance is not that fragile.

I believe this Administration has used NATO recklessly in its efforts to sell a bad treaty. If our allies foresee an era of continuing erosion of U.S. strength relative to the Soviet Union, that will contribute to a loss of confidence. What is needed instead is U.S. leadership and strength.

II. SALT II AND THE GRAY AREA SYSTEMS

(Martin R. Hoffman)

Our European allies have reason to be concerned, since we have displayed an uncharacteristic disregard for their and our interests. The treaty is casual about "gray area" systems (Backfire and the SS–20) which this Administration claims do not pose a threat to the U.S. They represent a very real challenge to western Europe. At the same time, the U.S. has compromised its cruise missile advantages. The strategic arms agreement reached at Vladivostok by President Ford was superior to that concluded in Vienna by President Carter in these regards.

Vladivostok left open the matter of the Backfire bomber for further negotiation *in tandem* with negotiations on cruise missiles. At that time, the Backfire was just coming into operation and there was debate within the U.S. Government as to its capability. Now most agree that Backfire has intercontinental range. Nonetheless, it is left outside the legal SALT II package, while cruise missiles are included. Air-launched cruise missiles, a new American technology, would be restricted in both deployment and payload characteristics. The Protocol obviously will be a precedent for SALT III, and under it sea-launched cruise missiles would be restricted in their nuclear and in their conventional or nonnuclear role. Ground-launched cruise missiles, left open at Vladivostok, would also be restricted, in both nuclear and conventional roles, to the disadvantage of the U.S. and our allies.

In short, the SALT II package creates an unprecedented situation in European security affairs by limiting NATO's Europe-related military capabilities—cruise missiles—to accommodate Soviet arms control pressures. SALT II and the Protocol would: a) place into question the ability of the U.S. to help the Europeans modernize their nuclear and conventional forces; b) possibly limit the U.S. ability to modernize our own defense forces in and around Europe; and c) leave the Soviets' Euro-strategic nuclear forces—primarily the mobile SS–20 missiles and the Backfire bombers—unconstrained by the documents.

III. AMERICAN DEFENSE CAPABILITIES THEN AND NOW

(Thomas C. Reed)

In January of 1977 the United States at least enjoyed something called essential equivalence as President Ford had commenced rebuilding our strategic forces:

The TRIDENT submarine and missile programs were well under way, with an operational first boat expected this year.

The B–1 had been committed to production. The first production aircraft would have been delivered to the Air Force last summer. The first two wings would have been operational by 1982 with the entire force delivered and deployed by 1985.

The cruise missile had been reinvented with modern technology. Air and sea launched versions were to have been deployed two months from now.

The ICBM assembly lines and industrial base had been kept open.

Guidance system improvements and a new, higher yield warhead had been ordered for Minuteman.

The Air Force seriously addressed the need for ICBM modernization and settled on a design, known as M–X. By January of 1977 there were no technical uncertainties to preclude immediate full scale development and production of a 100-ton M–X that would fit in the Minuteman silo, but with ten times the destructive power of that aging missile. The budget submitted to Congress in January of 1977 called for initial operational deployment of M–X in 1983, with means to accelerate that to 1982 if desired. More importantly, the budget submission of January 1977, envisioned the maintenance of essential equivalence at the very least. But in that month there arrived a new and different view of national security.

The Carter Administration recommended immediate cuts in defense programs. Over the four year life of this Administration they would constitute a $50 billion reduction from plans that were in place when they took over. Consider:

The first TRIDENT submarine will not be operational until 1981 and there is no program for deployment of the TRIDENT II missile in that boat.

The B–1 program has ceased to exist, and the Administration has yet to announce how it plans to get the so-called replacement weapon system—cruise missiles—off the ground, away from ground zero, and somewhere near the Soviet Union in the event of surprise attack.

The cruise missile program itself has been delayed at least two years—to the end of 1982.

ICBM production lines have been closed and key personnel have scattered.

M–X has been studied to death, with an initial operational capability delayed to 1986, and a complete force not available until 1990.

On the average, the strategic programs of the United States will have slipped three years during the four years of this Administration. Not a brilliant record. Yet this Administration now is seeking a vote of confidence in these strategic arms policies by proposing a SALT II treaty.

These policies if pursued will be catastrophic for the United States. They have set the stage for the politico-military inferiority of the United States in the early to mid-1980's. They do not deserve a vote of confidence, and the SALT II treaty should not be ratified as proposed.

IV. TRIDENT, SEA CONTROL, AND THE TRANQUILIZER EFFECT

(J. William Middendorf)

This Administration has placed great weight on the Submarine Launched Ballistic Missile as a guarantor of stability. Even in this critical area the Carter Administration is ignoring reality.

The Poseidons are old. They are confined to areas of the ocean that will sooner or later make them susceptible to detection. Yet the TRIDENT submarine program has been reduced. The TRIDENT II missile program with its improved range, payload accuracy—which would have vastly expanded the operational areas of the TRIDENT submarine—has been postponed indefinitely. And this neglect is only one example of what has happened to the United States Navy.

The Navy shipbuilding program has been emasculated. We worked for three years to bring forward a Navy shipbuilding program that would, by 1990, give us a "sea control Navy" of 580 ships. Despite the vast Soviet naval build-up, this Administration's current program will have the effect of cutting the Navy to about 300 ships in 1990, a cut of more than half in terms of capability.

These reductions are part of a dangerous pattern, in some respects arising from the SALT process itself. This process has had the effect of lulling the American people into believing that an agreement in itself—rather than the real relative capabilities—can assure U.S. national security. Our proper goal should not be an arms agreement per se, but rather peace and the preservation of freedom. To the extent that such an agreement can contribute to that goal—and to that extent alone—it is desirable. I do not believe SALT II as drafted so contributes.

Rather, I believe it contributes to a dangerous tranquilizing effect—a feeling that all is well because the Administration has said so.

V. THE SALT PROCESS AND SOME CONCLUSIONS

(William P. Clements)

This combination of induced public tranquility, determined Soviet progress, and a casual attitude by the U.S. Government towards defense, these factors have all combined to bring us to the brink of mortal peril. During my four years as Deputy Secretary of Defense, I was a member of the National Security Council and was also a member of all of the subcommittees.

The record is clear that over that four year period I supported a proper SALT treaty. My colleagues and I are all in favor of nuclear arms limitation treaties. I was also a strong advocate of the Vladivostok accords. And I strongly advocated "equal aggregates with freedom to mix". But SALT II as it has emerged does not represent a net improvement over the Vladivostok accords. On the contrary, the contentious issues of Backfire and cruise missiles have been resolved in ways largely unfavorable to the U.S., while problems involving verification, survivability of U.S. missiles, and the preponderance of Soviet throw weight have been left to haunt us in the future.

This treaty should not be ratified. Any new treaty must cover the inequities generated by the Soviet "heavy ICBMs", must clarify U.S. rights to build the appropriate mobile ICBM system, must recognize that Backfire is a strategic system, must resolve ambiguities and limitations on U.S. cruise missile technology, and must assure verification.

At the same time, the Congress and the Administration must support immediate defense investment to recover from the false economies of recent years. The widely discussed 5 percent real increase represents roughly $6.5 billion per year. This figure falls far short of meeting the true defense needs of the country. It has taken several years to create this problem, and it will now require a real increase in defense spending of $20 to $25 billion per year with emphasis on strategic systems to have any hope of recovery by the late nineteen eighties.

We all want peace and security for our Nation. The question is how to assure that peace and security.

Leadership and determination are required. We could have had this SALT II agreement years ago. It was not acceptable then. We do not recommend its ratification now.

Mr. WARNER. Mr. President, although I am placing the statements of these former Department of Defense officials in the RECORD, I wish to make clear that I reserve final judgment with respect to the contents of their statements. As a

group these distinguished former Defense officials are unique in their experience in the formative stages of the SALT II negotiations upon which their opinions and conclusions rest. I recommend to my colleagues a study of their release, another valuable contribution to this vital national issue.

At the conclusion of our breakfast meeting, I shared with them my belief, which I first addressed to the Senate in a colloquy with the distinguished majority leader on September 25 that there is a middle ground in terms of the Senate's constitutional responsibility with respect to SALT II, namely that we, as a body of statesmen, may come to recognize that in order to keep the SALT process alive we should find a means by which to recommit the treaty to the President, and recommit it in a manner that in no way denigrates the efforts of the President on behalf of the SALT process. We may come to the recognition that now is not the time for the Senate to make a final determination for or against this particular treaty for these reasons.

We have a political year rapidly coming upon us, we have the consideration of America's 5-year defense program, which cannot be guaranteed by an administration with just 1 year remaining in office and we wish to avoid the consequences of a deadlock between the President and the Senate experienced during the debate on the historic Treaty of Versailles following World War I. Therefore, it will be my recommendation to the Senate—and I will express this recommendation in the form of my statement to be filed with the Armed Services Committee report on SALT, which should be forthcoming this week—that a final determination by the Senate on SALT II be deferred until after such time as the United States elects its President in November of 1980.

Such action by the Senate must reflect our genuine and clear concern for arms control and global peace and security. It should not be perceived as a breakdown or collapse of our constitutional system with respect to treaties, nor should it represent a rejection of the total efforts by the President, the negotiators of SALT II, and Cabinet advisors.

If the Soviets are sincere about their intentions to achieve meaningful arms control, they should accept the reality of such a deferral. There is legal precedent in international relations for the signatory powers to a treaty to live within the spirit of the terms pending final action by either signatory. Further the United States and the Soviet Union are presently observing this international law respecting two treaties signed but awaiting final disposition by the Senate: Threshhold Test Ban Treaty, signed in 1974; and the Peaceful Nuclear Explosions Treaty, signed in 1976.

Thank you Mr. President.

PRAVDA WARNING ON MISSILES

Mr. STEVENS. Mr. President, I join in commending my good friend, the majority leader, for his comments about the work of the Foreign Relations Committee. I have on many occasions listened to our ranking member on that committee, Senator JAVITS of New York, brief those in the leadership on our side of the aisle as to the progress being made by the committee, and we all know it was a most thorough and painstaking job that they undertook in considering the issues that were presented to their committee.

As one who is not totally committed one way or the other on this SALT Treaty, I found an article in this morning's newspaper a little disquieting. It was an article entitled "Pravda Warning on Missiles."

The article, datelined Moscow, is very short so rather than place it in the RECORD I will just read it:

> Commentary in the Communist Party newspaper Pravda said American strategists are striving for nuclear-weapons superiority over the Soviet Union, and warned that Moscow would retaliate for any attempt to place new missiles in Western Europe.
>
> The article referred to Soviet officials' trips to Bonn and Rome to press the Soviet case against NATO missile modernization plans. These efforts were believed in the West to have failed to dissuade either Italy or West Germany from accepting new types of medium-range missiles.
>
> The NATO alliance is to meet next month to decide whether to place nearly 600 new missiles, aimed at the Soviet Union, in Italy, West Germany, Belgium, the Netherlands and Britain.

I am sure the Senate realizes that part of the consideration that led to the treaty was the balance that we were told existed for the period that the treaty would cover, and that balance is contingent upon, at least in part, the deployment of the so-called cruise missile, the range of which has been limited and which can only be placed in the countries allied with us under NATO, particularly, Italy and West Germany.

There are other nations whose locations would be equally advantageous. It disturbs me to learn that the Soviets, having entered into this agreement which limits the range of our new cruise missiles, which missiles, when deployed would offset Soviet weapons already in place, and would not be an escalation of the arms race, are trying to frustrate the intent of the treaty before it is even ratified. These are missiles which are included within the concept of SALT II.

If we are to sign an agreement and ratify a treaty that would hinge upon our being able to deploy the cruise missile, and then learn that the Soviets are using their powers of persuasion to prevent these missiles from being located on the Continent, then I fail to see how we could achieve an agreement that would be considered in the best interests of the United States. I, for one, hope that the Foreign Relations Committee will ask for, receive, and be prepared to answer questions concerning the adequate explanation of this issue from the Soviet Union. It is my further hope that the committee will be able to explain to some of us who are uncommitted as to how this would affect deployment of missiles covered by SALT II, and in particular, as I mentioned, the cruise missile, which I consider to be one of the most important missile systems that we have in the offing, and one that is currently capable of being deployed, as I understand the situation.

Does the Senator from North Carolina seek time? Mr. President, may I inquire how much time I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes of leadership time remaining.

Mr. STEVENS. I yield 1 minute to the Senator from North Carolina.

Mr. HELMS. I thank my friend from Alaska.

SENATOR McCLURE SAVES TAXPAYERS $1.9 BILLION

Mr. HELMS. Mr. President, I want to commend the able and distinguished Senator from Idaho (Mr. McCLURE) for the effective role he played in the development of the Agriculture Appropriations bill, H.R. 4387.

One of his accomplishments on that bill, in particular, warrants special recognition. During conference committee deliberations, the administration asked the conferees to increase food stamp spending to a total of $1.9 billion more than either the Senate or the House voted in their respective versions of the bill. No authorization exists for such a funding level, so the appropriation of these additional funds was to be made "subject to authorization."

Senator McCLURE promptly questioned this request and, after investigation, revealed the effort for exactly what it was—a legislative "end run." The Senator's lucid explanation of the circumstances surrounding that proposal led the conference committee to dismiss the request. Now, as is proper under our appropriations process, that proposal will be considered in a thorough and timely manner by all of Congress as a supplemental appropriations request next year.

Senator McCLURE's well reasoned efforts which caused the blockage of that extravagant proposal have helped preserve the appropriations process. And, most importantly Senator McCLURE's good work has preserved the oversight prowess of the Agriculture Committee when it is needed most—with the food stamp program.

Mr. President, we are very fortunate to have among us a Senator with the ability, judgment, and skill of JIM McCLURE.

The citizens of Idaho should be proud of his efforts to bring wasteful spending under control.

Mr. PROXMIRE. Mr. President, if the minority leader has time remaining, I would appreciate if he would yield it to me.

Mr. STEVENS. If it is on the same subject we have been discussing, I will be happy to yield the Senator my time.

Mr. PROXMIRE. No.

Mr. STEVENS. I notice that the Senator from Massachusetts (Mr. TSONGAS) is waiting. He does have a special order.

Mr. PROXMIRE. I beg the Senator's pardon.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I do yield the remainder of my time.

SALT II

Mr. ROBERT C. BYRD. Mr. President, the questions that have been raised by the distinguished acting Republican leader are extensively treated in this report. First, the cruise missile, sea launch and ground launch, are included in the protocol. Testing can continue; development can continue; deployment cannot continue with respect to those that have a range in excess of 600 kilometers.

But the Foreign Relations Committee provided, in one of its categories, that the extension of the protocol in part or in its entirety could take place only in the event of consent by the Senate, by a two-thirds vote.

The committee also dealt with the noncircumvention clause in a way that makes absolutely clear that the United States will continue its collaboration with its allies with respect to the modernization of theater nuclear weapons.

I am not surprised at all by the Pravda editorial. I would have anticipated it. I saw that Mr. Gromyko had visited Germany and talked with Chancellor Schmidt. Mr. Brezhnev made his offer some time ago, which was quite transparent; and so I am not surprised at all at the article. I would just hope that Germany, Italy, and the other allies will go right ahead plowing a straight furrow, and make their decisions based on the interests of the allies, including ourselves.

I would hope that this body would act on the treaty after a reasonable length of time, and act favorably, so that our NATO allies can get encouragement from such action as they seek to go forward with the modernization of the TNF.

Mr. STEVENS. Mr. President, I ask unanimous consent that the special order for the Senator from New York come after that of the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Massachusetts is recognized.

MR. KISSINGER AND THE SHAH

Mr. TSONGAS. Mr. President, I would like to speak on two matters this morning. One is the rather startling posture assumed by former Secretary of State Henry Kissinger, who, as Senators know, has seen fit to comment on the recent events in Iran. I ask unanimous consent to have printed in the RECORD at the end of my remarks an editorial entitled "Kissinger's Cheap Shot," published in the Boston Globe on Saturday, November 24, 1979, and also an article written by Curtis Wilkie that appeared in the Globe on the same day, entitled "Kissinger Threat Alleged."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TSONGAS. I will read just the first paragraph of the Wilkie story:

> Henry Kissinger threatened to hold the Carter administration accountable for the death of the deposed Shah if the exiled Iranian ruler was not permitted to come to the United States for cancer treatment, according to a high State Department official.

I will read the last paragraph of the editorial:

> It is also sad to hear the former Secretary of State suggest to American audiences that a different kind of leadership for the past 2 years, and maybe some show of military strength, would have made a material difference in the course of events in the turbulent world of Islam, events that have been building up for decades.

Mr. President, if I were former Secretary Kissinger, having pleaded the United States into an alliance with the former Shah, and never having attempted to persuade him to soften his authoritarian role, I would disappear and try not to be interviewed. But in some contrast, he is out making speeches—at, I am sure, a rather tidy sum per speech—saying that somehow if he were Secretary of State today, it would be different.

I recall when I was running for the Senate Henry Kissinger said that being a Peace Corps volunteer gave one no insight into foreign policy. It seems to me that what this country needs, beyond a 5-cent cigar, is either Henry Kissinger's silence or his 2-year stint in the Peace Corps.

EXHIBIT 1

[From the Boston Globe, Nov. 24, 1979]

KISSINGER'S CHEAP SHOT

One need have no sympathy with those who now seem to hold power in Iran to have very serious doubts about the assertions coming from Henry Kissinger about how we all got where we are right now.

The former Secretary of State recently told a meeting of Republican governors in Austin, Tex., that vacillating American policy under President Carter had somehow lost Iran, the implication being that the United States was in a position to control events in that troubled country.

Kissinger's argument is in some respects a safe one. There is always appeal to the notion that the party in power at the time of a setback ought to take the blame for setback, no matter how deep-seated the causes of the problem.

Kissinger implies that Carter could have put a stopper in the bottle of traditionalist ferment throughout the Islamic world; that he could have overcome the authentic Iranian revulsion at the wrongs of the shah's regime; that he could have provided a military solution to an essentially politico-religious movement that was conspicuously nationalist in character.

Kissinger's complaints would be more believable if there was anything to indicate that he and his colleagues in government had done anything while they held power to convince the shah that he had to change his own policies. Kissinger might have urged the shah, for instance, to encourage the development of local governmental responsibilities to drain off the energies and hostilities of those who ultimately made the Iranian revolution an inevitable success. Apart from his willingness to accept domestic violence as part of his mode of government, the shah's chief failing was his intolerance of sharing power among all levels of society—and Kissinger seems never to have made any attempt to change that policy.

There are ugly features to the Islamic revival—the rising talk of conflict between Islam and blasphemy, for example. The world has moved too far to fall victim to calls for a holy war and it is sad to have the Ayatollah Khomeini issue such a call—and be heard sympathetically by his more volatile followers.

It is also sad to hear the former Secretary of State suggest to American audiences that a different kind of leadership for the past two years, and maybe some show of military strength, would have made a material difference in the course of events in the turbulent world of Islam, events that have been building up for decades.

KISSINGER THREAT ALLEGED

(By Curtis Wilkie)

WASHINGTON.—Henry Kissinger threatened to hold the Carter Administration accountable for the death of the deposed shah if the exiled Iranian ruler was not permitted to come to the United States for cancer treatment, according to a high State Department official.

The message was conveyed "pretty directly" to Secretary of State Cyrus Vance last month during Kissinger's efforts to persuade the Administration to let the shah come to New York, the official said.

The decision to permit the shah to enter the United States was made after his advocates—including Kissinger and New York banker David Rockefeller—made a "persuasive argument that the shah was seriously ill," the official said.

State Department physicians concluded that the shah was gravely ill from cancer after they reviewed medical records turned over to them by Dr. Benjamin Kean, a specialist who was dispatched by Rockefeller last month to examine the shah in Mexico, according to another senior Administration official.

However, the medical information was coupled with the political threat from Kissinger, the State Department official said. "He told us that if the shah died elsewhere without obtaining treatment here, then he would put our tit in the wringer."

(The "wringer" phrase was the official's choice of words, rather than Kissinger's. The phrase came into prominence during the Watergate investigations, when John Mitchell, former attorney general, used the phrase in a warning to the publisher of the Washington Post.)

Kissinger could not be reached for comment yesterday.

President Jimmy Carter, who sources said acted on the advice of Vance, agreed to let the shah come to this country on Oct. 20, in a gesture described by White House aides as "humanitarian."

The shah has been a patient at the New York Hospital-Cornell Medical Center since Oct. 22 and is still receiving treatment for cancer. Meanwhile, 49 Americans have been held hostage in Tehran for nearly three weeks by Iranian revolutionaries demanding the shah's extradition to Iran.

The shah underwent an operation for gallstones after his arrival in the United States, and he reportedly is to have another stone removed before his doctors will allow him to leave the hospital. However, the gallstone condition apparently was not an issue in the State Department's determination that the shah was seriously ill.

Kissinger's role in geting the shah into this country and his subsequent comments on the Iranian situation have aroused deep resentment within the Administration.

White House aides were furious this week over Kissinger's speech before a Republican governors conference in Austin, Tex., in which he accused the Administration of weak leadership in the Iranian crisis and said the American people are "sick and tired of being pushed around."

"He'll go off and make a cheap political statement, and then he'll call up privately and assure us that he supports the way the President is handling the situation," a White House official said. The officials said Kissinger made one of these calls to a Carter ally outside of government this week, after the Austin speech.

"Henry Kissinger is a devious and dishon-

orable man," the official, who is one of Carter's closest advisers, said.

"He's been trying to get the shah into this country since February or March," the White House official said. "He's been going around the Georgetown cocktail circuits, sticking it to us."

The Wall Street Journal reported yesterday that Administration officials initially resisted Kissinger's pleas that the shah be admitted but reconsidered when Kissinger linked the matter to his position on the Strategic Arms Limitation Treaty. Although many observers believe Kissinger's support of SALT is necessary to Senate ratification, a ranking Administration official yesterday said, of the Journal report, "That's just not true."

Kissinger has not endorsed the treaty and has said he has reservations about it in its present form.

The Administration had been reluctant to let the shah come to the United States because of concern Iranian revolutionaries would retaliate against the American embassy, a concern that was realized on Nov. 4, two weeks after the shah entered a New York hospital.

During his campaign to win admission for the shah, Kissinger often deplored the Administration's refusal to receive the deposed leader. In one speech, Kissinger compared the shah's homeless plight to that of the "flying Dutchman" and he insisted that the shah should be offered a haven here because of his long friendship with the United States.

Iran was closely allied with the United States during the shah's 37-year reign. During the Nixon and Ford administrations—when Kissinger was the chief foreign policy adviser—the shah became one of the biggest overseas customers for American-made warplanes and weapons.

The ties with the shah were continued by the Carter Administration, and during a state visit to Tehran two years ago, Carter hailed the shah's country as an "island of stability." However, the Administration was unwilling to rally behind the shah during the revolution that swept him out of power early this year. This led Kissinger to lament in Austin that the present Administration had not been "able or willing to offer him support or even understanding."

"Could it be," Kissinger asked the audience rhetorically, "that there is no penalty for opposing the United States and no reward for friendship to the United States?"

The remarks annoyed one of Carter's foreign policy advisers. "I think Kissinger's becoming more political than statesmanlike," he said, "and I find it sort of sad. I think he's forfeiting his credibility."

DOMESTIC OIL FROM DOMESTICATED DINOSAURS

Mr. TSONGAS. Mr. President, several months ago, having listened ad nauseam to the discussion of oil production as an answer to our energy problems, I asked one of my staff to sit down and come up with a real oil production plan. The speech about it was written months ago, but the time never seemed right, or, since it was somewhat tongue in cheek, it seemed perhaps inappropriate for the Senate floor. After the last few months, however, I have changed my mind, and would like to tell my colleagues that we do indeed have a plan for the increased production of oil.

HOW TO PRODUCE OIL

Mr. President, every day Washington gets the message: the simple solution to the oil shortage is to increase production. Newspaper ads have headlines like "Don't Limit U.S. Oil Production" and "Unleash the U.S. Oil Industry." Those advertisements were probably written by the same public relations firm that wanted to "Unleash Taiwan."

Lately there has also been a television commercial with a famous comedian and golfer gushing with eagerness to produce new oil.

Let us face it: New oil production is more appealing than alternative energy strategies. Conservation, for example, is a clear inconvenience to the American people, even though the energy project of the Harvard Business School recommended conservation over all alternatives. Cogeneration is kind of like recycling: It seems chintzy. Solar energy sounds too good to be believed. Low-head hydroelectricity is hard to get excited about. Windmills were used years ago: How can we go back to them and call it progress?

My enthusiasm for producing new oil was jolted when I looked between the lines the oil pushers are handing us. All the world's oil is old, and all we do is extract it, you do not produce oil; you simply extract it. Even synthetic fuels—the summer sensation—are finite. They are derived from our existing supply of fossil fuels.

Since we politicians, including Members of the Senate, do not want to change our ways—nor does the public—I am announcing today a new plan to make the new oil that everyone is talking about and counting on.

All this talk about producing more oil, but no one is talking about how oil is produced. The old-fashioned recipe for oil comes to us from the age of reptiles. Mother Nature put animals and plants in water, smothered them with sediment, and waited. This earthy pressure cooker produced oil and gas, sometimes as fast as a million years. Experts believe that most oil came from plants and one-celled organisms. But making new oil from little-bitty plankton and plants is not going to inspire Americans.

This Nation's vision must be bigger and better. If we are really serious about producing new oil, I suggest that the best, the simplest, indeed the only solution is a major research and development program in dinosaur resources. We will raise them, bury them, and produce oil from them.

DINOSAUR DEVELOPMENT

A dinosaur domestication program for new, domestic oil must ask: Why not the best? In energy, we continue to believe biggest is best, and so the prime target of dinosaur R. & D. should be the dignified Diplodocus.

As my distinguished colleagues may recall, the Diplodocus is a warm-blooded beast. The creature runs around 60,000 pounds, and can reach 87 feet in length. It stays in shape with water sports, which are made easier by nostrils right between the eyes. It follows a strictly vegetarian and fish diet.

An Energy Department expert advises my office informally that each 60,000-pound Diplodocus might yield about 20,000 gross pounds of crude oil. That is over 70 barrels of oil per beast. With a modern manufacturing process, we ought to be able to extract most of that.

Now there are chronic critics—pessimists who dislike innovation. They may say that there are no more Diplodoci, and that we cannot make them in a laboratory.

I say that reports of their death may be greatly exaggerated. We all know how things get blown out of proportion in the news. Have we really been looking for them lately, or just going our own separate way? And what about the Loch Ness monster? Dinosaurs dominated the Earth for over 100 million years. It is awfully hard to believe that they would just disappear.

I am hopeful that at least a couple of these economy-size sauropods can be captured somewhere, maybe while munching on their daily quarter-ton diet. Then highly trained counselors could encourage a meaningful relationship between them. Before too many generations, the civilized world would be crawling with the creatures.

It is possible that dinosaurs other than Diplodoci may produce themselves first. Varieties that flourished toward the end of the Age of Reptiles would be ideal because that was the Earth's prime time for oil formation. Half of North America was covered with water. Genetic experts might mate a Tyrannosaurus rex with a duck-billed Trachodon. This could create a heavy, high-energy breed that would not be flashing its teeth all the time.

If we must start from scratch in a test tube—a rather large test tube—the Diplodocus should be our national goal. Let the energy doomsdayers scoff. I am confident the nation that achieved lasers, lunar landings, polio vaccine and the Gong Show can produce an uncomplicated dinosaur. Modern technology may even cut production time under the million-year mark.

To make oil from deceased Diplodoci, technicians would store them under heat and pressure in the absence of oxygen. Ages ago this happened only infrequently. For example, a Stegosaurus basking by a fast-flowing stream might fall in and drown—and end up centuries later as oil beneath sedimentary rock. Now we can insure proper, oil-producing burial for all dinosaur resources.

MANY BENEFITS

A related benefit is that cradle-to-grave care for domesticated dinosaurs is "labor-intensive." Dinosaur oil production will create many needed jobs.

Let us not forget that dinosaurs will be right at home in our future climate. The end of the age of reptiles had a hot, steamy climate with water everywhere. The industrialized world is headed in the same direction because of the "greenhouse effect" caused by increased carbon dioxide in the atmosphere from burning fossil fuels. Thus one dividend of using more coal and gas will be a whole Earth surrounded by hot air laden with carbon dioxide. Another cause of the greenhouse effect is the disappearance of half of the world's forests in the past 30 years. At the present rate, two-thirds of what remains will be gone by the year 2000.

The greenhouse effect is expected to warm the globe and melt part of the polar icecaps. Eventually the United

States may be two islands—Appalachian Island and Rocky Islands—with dinosaurs in swamps all around. Offshore drilling rigs in places like Kansas will overflow with new oil. Deposits near abandoned vaults of nuclear waste might even gush with oil that glows in the dark.

One final point in favor of massive dinosaur oil production is safety. Dinosaurs' high-energy systems do not create dangerous hydrogen bubbles. There is no record of a single human life ever being lost in a dinosaur accident. The Diplodocus, in particular, has only a small mouth and none of the antisocial tendencies of the Tyrannosaurus.

Mr. President, a crash program for domestic oil from domesticated dinosaurs may have complications, but it sounds so good. Washington craves simple solutions that sound good, as demonstrated by the deification of synthetic fuels. It is impolitic to point out certain realities. For example, just 4 pounds of coal per person in the world will be mined this year, and any more than that is more than your fair share.

We can fill the air with rhetoric about how the United States is "the Saudi Arabia of coal" until the air is so filled with carbon dioxide, particulates, and other debris that it is unfit to breathe. We could become "the Saudi Arabia of conservation," but that is too boring and too easy. We prefer the hard path.

We like the large-scale, high-risk route. We are loaded with bravado and billions to shelter our lifestyles from reality. And so we might as well go all the way with the dream that old ways will save us in a new age.

So much has been said about producing new oil—why not really give it a try? Yes, it will take a million years, but our descendants will thank us. And more importantly, it will give aid and comfort to all the politicians and oil executives who talk about oil production. And it will give Americans something to feel good about while we are shivering in the cold and in the dark after consuming all the oil from Mother Nature's first round of oil production.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Alaska (Mr. STEVENS) is recognized.

Mr. STEVENS. Mr. President, I ask that the special order for the Senator from New York (Mr. JAVITS) be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Alaska (Mr. STEVENS) is recognized for not to exceed 15 minutes.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum and that the time be charged against my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll. The time will be so charged.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. How much time remains of my special order?

The ACTING PRESIDENT pro tempore. The Senator has 9½ minutes remaining.

OIL AND GAS DEVELOPMENT IN ALASKA

Mr. STEVENS. Mr. President, I would like to once again call attention to the problem that exists in my State concerning oil and gas exploration and development. In today's Wall Street Journal there is an article entitled "Fruitless Search: After 200 Dry Holes, Oil Companies Turn Cool Towards Alaska. No Major Commercial Fields Have Been Hit Since '68; Some Drilling Continues."

I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AFTER 200 DRY HOLES, OIL COMPANIES TURN COOL TOWARD ALASKA

(By Richard D. James)

ANCHORAGE.—The search for oil in Alaska is going badly.

Ever since 1968, when North America's largest known oil field was discovered at Prudhoe Bay, most energy experts have regarded the state as the hottest prospect for cutting U.S. dependence on foreign oil. The auspicious beginning on the North Slope stirred expectations of more big oil strikes in Alaska soon. In 1969, oil companies shelled out $900 million to the state for rights to explore elsewhere on the North Slope.

However, the high hopes that oil executives held for Alaska aren't bearing fruit, and the industry's euphoric "Prudhomania" is waning.

Since the Prudhoe Bay finds, no significant commercial discoveries have been made in Alaska either onshore or in nearby waters. About 200 exploratory wells drilled in the past decade all have been practically dry holes. About half the wells were drilled on the North Slope outside the Prudhoe field; so the industry has almost nothing to show for the $900 million that it paid the state in 1969—plus the huge outlays for the actual drilling. Nearly all the oil currently being produced in the state flows from discoveries made more than 10 years ago.

POOR BATTING AVERAGE

Even including those early discoveries, the effort in Alaska has been somewhat disappointing. On the average, only one commercial field has been discovered in Alaska for every 26 wildcat wells. "Either Alaska is overrated, or we're on the brink of a huge discovery," wryly observes Roger Herrera, a senior Alaska oil geologist for Standard Oil Co. (Ohio).

The industry and others blame a variety of problems. Besides just plain bad luck, they cite foot dragging by the state and federal governments in leasing acreage for exploration and hostile state policies that discourage drilling on what little acreage has been made available.

"Alaska may have been the nation's great white hope for easing the energy crunch, but right now it's beginning to turn tattletale gray," says John Silcox, Western regional exploration manager for Chevron U.S.A., a subsidiary of Standard Oil Co. of California.

As a result, oil companies have scaled back exploration in the state. The number of state permits for exploration wells last year was the lowest since 1972, and the total so far this year is still lower. In the first six months of 1979, the average number of drilling rigs at work in the state declined 13 percent from a year earlier, and the number at work at the end of October had dropped to 10 from 15 a year before.

Williams W. Hopkins, executive director of the Alaska Oil and Gas Association, adds: "Probably a good indicator of industry commitment to Alaska exploration is the maintenance of company exploration staff in Alaska. From 1971 through 1978, at least 20 oil companies that had offices in Alaska have closed them."

The cutback comes at a time, of course, when political instability in the Mideast and soaring prices of foreign oil make new domestic supplies more important than ever. Right now, Alaska supplies more than 15 percent of the nation's total daily production. (Only Texas produces more; it accounts for 32 percent.) However, output from Prudhoe Bay, Alaska's main producing area, is expected to decline in eight or 10 years—about the time required to bring new discoveries, if any, into production. Thus, there is nothing in sight to take the slack.

NOT BEATEN YET

But the industry isn't giving up on Alaska, at least not yet. An oil-lease sale scheduled for next month and covering acreage in the Beaufort Sea just north of the Prudhoe field has stirred substantial interest. The area is regarded as having the greatest oil potential in the U.S., and a recent major discovery in the Canadian sector of the Beaufort Sea has helped whet the industry's appetite.

However, if the sale is delayed—a strong possibility because of potential challenges over environmental risks, sale terms and the ordinances adopted by the North Slope Borough to govern the use of coastal land—or if the area turns out dry, oil exploration in Alaska could be chilled for years to come. "The Beaufort sale will make or break Alaska as to the future level of activity," Sohio's Mr. Herrera says.

Of all the industry's disappointments in Alaska, perhaps the biggest has been in the Gulf of Alaska off the southern coast. Estimating that the area could hold two billion barrels of oil or more, the companies spent $560 million in 1976 for exploration rights. Shell Oil drilled first on a lease that cost nearly $62 million, and the well turned up dry. Since, then, 10 more dry holes have been drilled by other companies, and now the industry is giving up. Of the 76 leases sold by the federal government, 32 have been turned back even though they have two more years to run.

"It's surprising we didn't find something," says R. H. Nanz, Shell Oil vice president in charge of exploration in the Western region. "We thought there was a good chance for a large field."

The disappointment is continuing 300 miles west in Cook Inlet, where the industry spent nearly $400 million for leases in 1977. Earlier this year, Marathon Oil Co. abandoned the first wildcat well drilled there after finding oil only in noncommercial amounts. Several other wells have been drilled and subsequently abandoned. "It will take a few more holes to be sure, but the area has been very bleak to date," says Mr. Silcox of Chevron, which is drilling a well in the area.

Even the national petroleum reserve, in the state's northwest corner, has proved mostly dry so far. Thinking that the area was awash in oil, the federal government established the reserve in 1923, but 19 wells drilled under the Interior Department's $500 million exploration program in the past five years haven't been productive. The department was ready to abandon the effort on September 30, but Congress kept it going. Five more wells will be drilled this winter.

The program's failure to date has been so frustrating that some oil executives and Congressmen have accused the U.S. Geological Survey, which is conducting the work, of incompetence and even of deliberately trying to avoid finding oil. "That's an insult to

some very dedicated people," responds George Grye, chief of the petroleum reserve, but he acknowledges a drop in enthusiasm. The Geological Survey has slashed its estimate of the reserve's potential recoverable oil to three billion barrels from 10 billion.

The oil companies' charge that the state and federal governments have moved slowly on leasing acreage for exploration particularly concerns many offshore areas, such as the Beaufort Sea, deemed to be prime oil prospects. The federal government, which controls the outer continental shelf, has leased only 1.7 million acres of it in Alaska. "That's a pittance compared with the total" of about 380 million acres, Mr. Silcox says. The Alaska Oil and Gas Association says six Alaska offshore lease sales originally scheduled for the past three years have been postponed by the Interior Department; only one sale was held in that period. The delays have run as much as six years.

LOW PRIORITY?

The industry blames the delays on a lack of a sense of urgency in the Carter administration. "Until recently, I don't think the Secretary (Interior Secretary Cecil Andrus) considered offshore sales one of the high priorities," the association's Mr. Hopkins says.

As a result of the delays, an oil-company geologist says, "We have exploration ideas we can't capitalize on because the acreage hasn't been available."

Yet the industry sees some encouraging signs. A leasing schedule proposed by the Interior Department in June advances some sale dates and includes some interesting areas that were excluded previously. The state also may be speeding up. Earlier this year, it proposed 15 lease sales through 1983, compared only with one sale in the prior five years.

However, oil companies generally would like even more sales. Shell Oil, for example, has proposed a schedule that would nearly triple, to 26 from 10, the federal offshore sales this year through 1985. "We don't understand why we have to wait so long," Mr. Nanz says. He estimates that Shell's proposal would result in Alaskan production of four million barrels a day by 1995, compared with one million barrels under the government's proposal.

TAX INCREASES ASSAILED

The industry also blames Alaska's political climate for slowing exploration; it particularly cites tax increases on oil companies. "There's no question that the ever-increasing tax burden has taken the bloom off (Alaska), and it will take a real bonanza to make it pay" to hunt for oil in the state, says Crandall D. Jones, manager of Alaska exploration for Exxon.

The state legislature has raised oil taxes 13 times and about 90 percent in the 11 years since the Prudhoe discovery. A study earlier this year by the Merrill Lynch White Weld Capital Markets group for the legislature states: "The rapidity and constancy of changes in the tax law have helped to create an atmosphere of instability and triggered a gun-shy attitude among present and potential investors alike."

Robert E. Le Resche, Alaska's commissioner of natural resources, defends the increases. He says the "legislature and people of the state felt the state sold those (Prudhoe Bay) leases too cheaply, so we're remedying the matter through taxes." However, he concedes that "it's a lousy way to do business," and he predicts that state lawmakers won't change the tax structure significantly for a long time to come. The taxes that were needed are in place."

Mr. STEVENS. Mr. President, the article is not an inaccurate one. What it fails to note, however, is that the Federal Government still controls over 90 percent of the land mass of Alaska. The 1968 major discovery at Prudhoe Bay took place on lands owned by the State of Alaska. There has been no new Federal oil and gas lease issued in Alaska since 1965. Again, this is despite the fact that over half the lands owned by the U.S. Government are in my State.

In the time that we face now, when it is absolutely certain that the United States must accelerate its activities in attempting to locate, develop, and make available to our markets our own oil and gas resources, it appears to me to be timely to point out that there is no act of Congress that prohibits the full exploration of Alaska. The Great Arctic Wildlife Range, which was created by Executive order in 1960, is still subject to oil and gas leasing under stipulations to protect the wildlife, particularly the caribou. But the President of the United States could order the leasing of the Arctic Wildlife Range today. He could order the Secretary of the Interior to lease the balance of Alaska's Federal lands that are not specifically reserved for national parks today.

Oil and gas leasing is permitted in wildlife refuges. It is permitted in wildlife ranges. The vast portion of Alaska that is controlled by the Federal Government is subject to leasing by Executive order. Yet we find that the oil industry is concluding that Alaska is not the place to be concentrating its efforts, mainly because the acreage to explore has not been made available by the current administration.

It seems to me that there must be some way for the American people to become aware of the vast potential of Alaska. As I have repeatedly stated, the estimates indicate that 60 percent of all the petroleum the United States will consume between now and the end of the hydrocarbon age will come from either onshore or offshore Alaska. Yet today we have but one major field discovered in the Arctic. The reason is that the administration, rather than making more land available, is doing everything it can to totally close these lands off to exploration and ultimate development.

I hope that there will be increasing emphasis placed upon Alaska's potential, and that the Congress and the public, and I hope our friends in the news media, will bring increasing pressure upon the administration to make the decisions only it may make as far as permitting the eventual leasing of these lands.

Strangely enough, the Federal Government is insisting that leasing take place in the Beaufort Sea.

I believe that the risks are greater in the Beaufort Sea than anywhere else in the world. Our people are not opposed to risks which are necessary in the interests of national security, but why, Mr. President, when the only risk that we know of onshore in the Arctic Wildlife range is the risk to the caribou that are only on the Arctic plains 6 weeks each year? Why is it that we must lease the offshore area under the pack ice where there are myriad species which will be risked by oil and gas development? Why could we not have a policy to explore totally onshore first before exposing the creatures of the Beaufort Sea to this risk?

There is a second article on that subject, Mr. President, and I ask unanimous consent that it be printed in the RECORD. It is entitled "Pack Ice Is Biggest Foe in Search for Oil Off Alaska." It is also an accurate story appearing in the New York Times of today, November 26, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PACK ICE IS BIGGEST FOE IN SEARCH FOR OIL OFF ALASKA

(By Sarah Overmyer)

ANCHORAGE, November 25.—Conservationists and Eskimos, concerned that oil wells in the Arctic pack ice could jeopardize the existence of the bowhead whale, have sued in Federal courts to block or limit the sale of drilling rights in the waters off the North Slope.

But the greatest foe of the oil companies is not the environmentalists, the Eskimos or the politicians. It is the ice—the shifting, grinding polar ice that can crush an oil rig in seconds.

Opponents of the scheduled Dec. 11 sale of oil leases for 514,191 acres of Arctic waters are using the ice as an ally in their battle. They say the oil companies lack the technology to deal with the ice and severe weather conditions, and they worry about oil spills in the fragile Arctic environment.

The companies reply that their technology is equal to the challenge, in the form of rocks and gravel that will support the rigs and fend off the treacherous ice.

Geologists say the area could contain up to 1.25 billion barrels of oil and 3.125 trillion cubic feet of natural gas. The estimate would make it the biggest oil bonanza since Prudhoe Bay.

Last Wednesday the North Slope Borough, which represents the Eskimos of Alaska's northern rim, filed suit in Washington seeking to block the sale of leases in the deep waters beyond the Barrier Islands. The Eskimos are particularly concerned that offshore drilling might disturb migratory patterns of whales, a mainstay of their diet.

VIOLATION IS CHARGED

A lawsuit filed by nine conservation organizations in Washington Friday went further, seeking to halt the entire sale. Dave Burwell, a staff attorney for the National Wildlife Federation, said the suit contends that the Interior Department violated the Endangered Species Act by failing to determine if drilling in the area would harm the bowhead before making an "irrevocable commitment of resources" to the oil companies.

Permission for the joint Federal-state Beaufort Sea lease sale, to be held in Fairbanks, was given after years of debate on the environmental risks.

Gov. Jay Hammond of Alaska and Secretary of the Interior Cecil D. Andrus worked out a compromise for drilling, initially permitting rigs in water only up to 39 feet deep. Exploration in deeper waters would be postponed at least two years, while the oil companies show that the gravel islands can withstand the onslaught of the ice pack at greater depths.

Some of the tracts to be offered are in water 60 feet deep. Exxon Company USA says it has already designed an artificial island that can be used safely in waters up to 30 feet deep and is working on a design for 39 feet of water.

15-FOOT ICE SHEET

The Beaufort Sea is choked with ice most of the year. During the dark, frigid winter months it is covered with a slow-moving ice sheet as much as 15 feet thick.

Exxon engineers say their gravel islands can ward off the ice. The islands, to be made of gravel taken from the North Slope, will be set up in likely spots. The rigs will be built on top of the islands and the workers will drill through them to the oil they hope is beneath the ocean floor.

Two types of islands are being designed, said J. S. Templeton 2d, an Exxon engineer. The exploration island will have a working surface about 400 feet in diameter and a life expectancy of up to two years. This island, expected to cost $8 million to $12 million, will have devices to monitor the pressure of surrounding ice and to alert workers when ice threatens the island, engineers say.

"It will have a rough sandbag beach slope to resist sliding, a steep bluff to cause jamming, a berm to trigger pileups and a buffer zone to accommodate override," Mr. Templeton said.

NEW ISLAND OVER WELL

If oil is found, the rig will be removed and a stronger production island will be built over the well or wells.

This island, costing $20 million to $40 million, is designed to protect drilling operations without backup monitoring devices. It is planned to withstand the worst possible ice storm during its 30-year life span.

Eskimos have testified that they have seen the ice in the Beaufort Sea buckle and bunch and rear up into 70-foot ridges in seconds. They say such ice could topple a steel drilling rig almost as quickly.

"We have worried about that in the design of the island," said Fred Hudspeth, engineering manager for Exxon's Alaska operations. "But the ridges have keels that would tend to ground before they posed a threat to the island. The ice would then serve as resistance to other ice moving into the island."

Hans O. Jahns, another Exxon engineer, said the ice ridges could erode the islands' underwater slopes but would not reduce the overall strength of the islands.

Critics remain skeptical.

"We're saying that if they are so confident, let them put one of these structures out in the deeper water," said Jon Buckholdt of the North Slope Borough. "We want to see how these structures they say are so impervious to ice override work."

Mr. STEVENS. Mr. President, we have no ultimate control over what the Federal Government does on the Outer Continental Shelf, nor does any State, but I do think that those who are interested in the total development of Alaska should be concerned about this inconsistency in Federal policy. The estimates they say are that the Beaufort Sea could contain up to 1.26 billion barrels of oil. That, Mr. President, is one-eighth of Prudhoe, one-eighth of the onshore find at Prudhoe Bay.

We have estimated that the Arctic wildlife range should contain at least as much oil as Prudhoe Bay, 10 billion barrels, and there are estimates of up to 30 billion barrels that have been applied to the national petroleum reserve, the old Naval Petroleum Reserve No. 4.

The important thing, Mr. President, is that there is no question but that executive action taken now with due concern for environmental protection could proceed with oil and gas exploration that could take place in the spring of 1980. It appears that that will not happen unless Congress places the pressure on the administration to go ahead and require the leasing of these lands onshore that have such great potential.

It is my hope that as we continue our discussion in this Congress of the Alaska lands issue that more and more Members of the Senate and of the total Congress will become aware of the stakes which are involved in terms of energy independence.

If we are to achieve energy independence at all, Mr. President, it will only be through full exploration and development of Alaska's oil and gas potential.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

RECOGNITION OF SENATOR ROBERT C. BYRD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business for not to extend beyond 15 minutes and that Senators may be allowed to speak therein up to 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO VITIATE ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my order be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TODAY UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:45 a.m. tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

OREGON WILDERNESS ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2031, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2031) to designate certain National Forest System lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the debate on this bill is limited to 30 minutes, to be equally divided and controlled by the Senator from Washington and the Senator from Oregon, with 10 minutes on any amendment, debatable motion, appeal, or point of order.

The Senator from Washington.

Mr. JACKSON. Mr. President, S. 2031, as reported from the Senate Energy and Natural Resources Committee, would designate approximately 506,000 acres of national forest system land in Oregon for inclusion in the national wilderness preservation system. The measure would also establish a 134,000-acre national conservation area in the State of Oregon.

This legislation, which is sponsored by my good friend from Oregon (Mr. HATFIELD), is an outgrowth of RARE II—the Forest Service's second roadless area review and evaluation. As many of my colleagues know, the Forest Service, since 1971, has twice undertaken an inventory and evaluation of the remaining roadless lands within the national forest system. Most recently, in June of 1977, the Forest Service instituted their second review and evaluation. The purpose of this exercise was to inventory or identify roadless and undeveloped lands within the national forest system and to distinguish areas with high wilderness potential from those most appropriate for uses other than wilderness.

On April 16, 1979, the administration made their final recommendations to Congress relative to the almost 3,000 identified roadless areas comprising some 62 million acres. From this inventory, the President has recommended that 15.4 million acres be designated by the Congress as wilderness. In addition, another 10.8 million should, in the view of the administration, be studied further before making any final recommendations. Finally, as a result of RARE II, the President has recommended that the remainder of the inventoried roadless areas, about 36 million acres, be available for uses other than wilderness.

Since the President's recommendations in April, a number of proposals concerning these RARE II areas have been introduced both here and in the House. In addition to this measure before us today, there are proposals pending in the Energy and Natural Resources Committee relative to RARE II lands in Missouri, South Dakota, Colorado, and California. Last Tuesday, the Senate passed and and sent to the House, S. 2009. This measure, introduced by Senator CHURCH, is designed to deal with a number of RARE II roadless areas in central Idaho contiguous to the Idaho primitive area.

Mr. President, in the weeks and months to come, the Energy Committee, and, more specifically, the Parks, Recreation, and Renewable Resources Subcommittee, chaired by Senator BUMPERS, will undoubtedly consider a number of additional RARE II wilderness proposals. As these measures are introduced, I can assure my colleagues that the members of the committee will examine these proposals carefully and judiciously on a State-by-State basis.

In the case of the bill before us today, S. 2031, Senator HATFIELD, the

committee's ranking minority member, is to be commended for his efforts to resolve the RARE II issue in Oregon expeditiously and fairly. As in the past, Senator HATFIELD has taken a very balanced approach to the "wilderness versus multiple use" battle in his State and has crafted a good compromise.

This measure was ordered reported unanimously from the Energy Committee and I urge my colleagues to join with me in supporting S. 2031.

Mr. HATFIELD. Mr. President, first, I express my gratitude, as I have frequently on the floor, to the chairman of our committee (Mr. JACKSON), who has been always most helpful and cooperative in matters of national and international import that we deal with in the Committee on Energy and Natural Resources. Most especially has he been supportive and cooperative on matters dealing with the Pacific Northwest and especially in matters that concern me in the State of Oregon. I appreciate and treasure this working relationship that I have with our chairman.

Mr. President, I am pleased to bring to the Senate this morning my proposed Oregon Wilderness Act S. 2031. It was just 2 years ago that I stood before my colleagues in this Chamber, and, along with Senator CHURCH, presented the Endangered American Wilderness Act—a bill which added almost 300,000 acres to the wilderness preservation system in my State. Since that time, the Forest Service has completed an intensive inventory of all the roadless areas on our national forests. In Oregon, some 2.9 million acres were studied for their wilderness potential under the roadless area review and evaluation, called RARE II.

Because of that study and the administration's recommendations which resulted from it, I again come before my colleagues to add significantly to the wilderness system in Oregon. At the same time, my proposed bill helps resolve the crucial question of the availability of nonwilderness lands for purposes other than wilderness. For the State of Oregon, the administration recommended that some 415,860 acres be designated by Congress as wilderness. My bill proposes a total of 506,000 acres—an increase of almost one-fourth. With a few minor exceptions, I have accepted those administration recommendations for wilderness and suggested additional lands of my own for such protective classification.

Should this proposal be adopted by the Senate, it would bring the total wilderness acreage in Oregon to nearly 11 percent of our national forest land; 1.7 million of 15.5 million acres would be devoted to this singular use. I believe this is appropriate and necessary for the protection of these unique roadless lands.

In addition, S. 2031 designates some 78,950 acres in Oregon as a national conservation area. For many years, I have expressed concern about lands which merit some form of protection, but may require limited management uses not in accord with the Wilderness Act of 1964. My advocacy for "backcountry," or management in a near-natural state, is based on the fact that we cannot afford to be singular in purpose if lands—or public needs—do not lend themselves to such exclusive purpose.

The forest land on the Cascade Range, which includes Windigo-Thielsen and Cowhorn Roadless Areas, is particularly and uniquely suited to such an intermediate category—one close to wilderness, but which allows recreational and management options which are not realistically available or permissible under restrictions of the Wilderness Act.

I believe it is appropriate to use a land classification developed by Congress several years ago and applied to some Bureau of Land Management lands. The National Conservation Area (NCA) would accommodate the special needs of this area.

Because of its location on the Cascade Range, which houses the spectacular Pacific Crest Trail, its adjacency to Crater Lake National Park, as well as the heavily used Diamond Lake composite, and its unique scenic and dispersed recreational opportunities, such a special category is desired here. The primary resource conflicts in this area are not timber, but rather motorized recreation. The designation is also aimed at allowing flexibility to control certain insect infestation problems in the forest in order to protect the remaining resource.

Finally, my bill addresses a key issue which has kept a significant portion of our national forest land "in limbo" for some 8 years, while wilderness review requirements were carried out. This provision—so-called release language—attempts to prevent delaying lawsuits on large land areas based on an alleged lack of wilderness review. It is my view, and the view of many others, as well, that 8 years and millions of dollars expended on the review of these roadless lands for a single use—wilderness—is adequate to meet requirements of study. I believe strongly that at the same time I have proposed legislation which adds substantial acreage to the wilderness system, it is appropriate to assume that lands designated as nonwilderness in the RARE II process will remain available for nonwilderness uses. My release language provision does this.

It is important to understand, however, that this release language does not:

Preclude or limit further agency review of wilderness, either through the land planning process or as a result of congressional mandate;

Neither does it limit the prerogatives of a future Congress;

Nor does it restrict the Forest Service management of an area as small "w" wilderness, that is, roadless back country;

It does not prescribe management of the area but rather places the area into the planning process;

My proposed release language does not limit lawsuits under applicable law except where the suit is based on an allegation that there was a lack of wilderness review for an area. For example, one can bring suit to stop development of a roadless area because the area cannot be reforested, the soils are unstable, the slope is too steep, fisheries will be damaged, and numerous other reasons.

Finally, it does not apply to national forest land outside Oregon.

What my proposed release language does do, is to lessen uncertainty over amount of land available for nonwilderness multiple use. As a result, future timber supply can be estimated.

It does limit court challenges on one of the uses of the nonwilderness areas—the wilderness use;

It insulates the Forest Service from lawsuits which seek to halt activities in nonwilderness area because there has not been adequate wilderness review;

And finally, it does help implement the nonwilderness portion of the RARE II process. Without this language, the nonwilderness portion of the RARE II process is meaningless and there are only wilderness and further planning recommendations.

I believe that I have prepared a balanced bill which appropriately makes important additions to our national wilderness system, while at the same time resolving some of the uncertainty surrounding the question of nonwilderness usage. I urge my colleagues in the Senate to act favorably on this proposal.

Mr. President, I am convinced it is important to add to the wilderness of our State. In the 12 years since I have been in the U.S. Senate, I have offered bills which have added 47 percent to the wilderness of the State of Oregon, out of the 1.2 million acres.

I feel, therefore, that as one who has authorized more wilderness bills than any other person in my State, it is a bill that is balanced.

I might say that further evidence of that is that I do not know many groups that like the bill.

The Governor does not like it because his proposal was 60,000 acres only. Therefore, my bill is much too much addition to the wilderness.

The wilderness groups, many of them, are unhappy because it does not include enough acreage and the release language is obnoxious to them.

Also, the timber industry does not like it because it has added too many acres of wilderness.

But I think, by and large, I can say this best represents the public interest. It may not represent the vested interests. It may not have the support of the vested interests, whether they be the wilderness vested interests or the timber harvest vested interests. But I do believe the general public has been properly served and the wilderness of the State will be properly enhanced by the passage of this bill.

In closing, Mr. President, I again thank not only the chairman of the committee for his support and my colleagues on the committee who passed this bill out unanimously, but I thank the majority staff of the committee, particularly Tom Williams, who is on the floor today, and the chief counsel, Mike Harvey, on the majority side; and also on the minority side, Tom Imeson of the staff, Jenna Oldfield, Steven Crow, and

Tony Bevinetto of the minority staff of the Energy Committee.

Everyone has been very helpful and cooperative in developing this bill.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HATFIELD. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. EXON). The bill is open to amendment. If there be no amendment to be offered, the question is on third reading and passage of the bill.

The bill (S. 2031) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Oregon Wilderness Act of 1979".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped public lands in Oregon possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the National Forest System in Oregon have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the National Forest System in Oregon have also identified those areas which should be available for multiple uses other than wilderness.

(b) The purposes of this Act are to—

(1) insure that certain National Forest System lands in Oregon be promptly available for nonwilderness uses including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, and watershed and vegetation manipulation; and

(2) designate certain other National Forest System lands in Oregon for inclusion in the National Wilderness Preservation System in order to promote, perpetuate, and preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and to promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people.

SEC. 3. In furtherance of the purpose of the Wilderness Act and in accord with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the following lands in the State of Oregon comprising approximately 451,000 acres and as generally depicted on maps appropriately referenced, dated November 1979, are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Mount Hood National Forest, which comprise approximately eight thousand three hundred acres, are generally depicted on a map entitled "Salmon Butte Wilderness Area—Proposed" and shall be known as the Salmon Butte Wilderness;

(2) certain lands in the Mount Hood and Willamette National Forests which comprise, approximately twenty-six thousand seven hundred acres, are generally depicted on a map entitled "Bull-of-the-Woods Wilderness Area—Proposed" and shall be known as the Bull-of-the-Woods Wilderness;

(3) certain lands in the Mount Hood National Forest, which comprise approximately forty thousand nine hundred acres, are generally depicted on a map entitled "Columbia Wilderness—Proposed" and shall be known as the Columbia Wilderness;

(4) certain lands in the Mount Hood National Forest, which comprise approximately fourteen thousand acres, are generally depicted on a map entitled "Badger Creek Wilderness—Proposed" and shall be known as the Badger Creek Wilderness;

(5) certain lands in the Ochoco National Forest, which comprise approximately thirteen thousand four hundred acres, are generally depicted on a map entitled "Black Canyon Wilderness—Proposed" and shall be known as the Black Canyon Wilderness;

(6) certain lands in the Ochoco National Forest, which comprise approximately six thousand three hundred and twenty-five acres, are generally depicted on a map entitled "Bridge Creek Wilderness—Proposed" and shall be known as the Bridge Creek Wilderness;

(7) certain lands in the Fremont National Forest, which comprise approximately seven thousand eight hundred and twenty-five acres, are generally depicted on a map entitled "Coleman Rim Wilderness—Proposed" and shall be known as the Coleman Rim Wilderness;

(8) certain lands in the Siuslaw National Forest, which comprise approximately six thousand five hundred acres, are generally depicted on a map entitled "Oregon Coast Wilderness—Proposed" and shall be known as the Oregon Coast Wilderness;

(9) certain lands in the Umpqua National Forest, which comprise approximately nineteen thousand eight hundred and twenty acres, are generally depicted on a map entitled "Boulder Creek Wilderness—Proposed" and shall be known as the Boulder Creek Wilderness;

(10) certain lands in the Umatilla National Forest, which comprise approximately sixty-five thousand five hundred acres, are generally depicted on a map entitled "North Fork John Day Wilderness—Proposed" and shall be known as the North Fork John Day Wilderness;

(11) certain lands in the Rogue River and Winema National Forests, which comprise approximatley one hundred and thirteen thousand acres, are generally depicted on a map entitled "Sky Lakes Wilderness—Proposed" and shall be known as the Sky Lakes Wilderness;

(12) certain lands in the Ochocho National Forest which comprise approximately fourteen thousand four hundred acres, are generally depicted on a map entitled "Mill Creek Wilderness—Proposed" and shall be known as the Mill Creek Wilderness;

(13) certain lands in the Deschutes and Willamette National Forests, which comprise approximately six thousand acres, are generally depicted on a map entitled "Mount Washington Wilderness Additions—Proposed" and which are hereby incorporated in, and shall be deemed to be a part of, the Mount Washington Wilderness as designated by Public Law 88–577;

(14) certain lands in the Deschutes National Forest, which comprise approximately eight thousand two hundred acres, are generally depicted on a map entitled "Diamond Peak Wilderness Additions—Proposed" and which are hereby incorporated in, and shall be deemed to be part of, the Diamond Peak Wilderness as designated by Public Law 88–577;

(15) certain lands in the Deschutes National Forest, which comprise approximately twenty-seven thousand three hundred acres, are generally depicted on a map entitled "Three Sisters Wilderness Additions—Proposed" and which are hereby incorporated in, and shall be deemed to be part of, the Three Sisters Wilderness as designated by Public Law 88–577;

(16) certain lands in the Fremont National Forest, which comprise approximately three thousand seven hundred and thirty acres, are generally depicted on a map entitled "Gearhart Mountain Wilderness Additions—Proposed" and which are hereby incorporated in, and shall be deemed to be a part of, the Gearhart Mountain Wilderness as designated by Public Law 88–577;

(17) certain lands in the Malheur National Forest, which comprise approximately thirty-five thousand one hundred acres, are generally depicted on a map entitled "Strawberry Mountain Wilderness Additions—Proposed" and which are hereby incorporated in, and shall be deemed to be a part of, the Strawberry Mountain Wilderness as designated by Public Law 88–577; and

(18) certain lands in the Wallowa-Whitman National Forest, which comprise approximately thirty-four thousand three hundred acres, are generally depicted on a map entitled "Eagle Cap Wilderness Additions—Proposed" and which are hereby incorporated in, and shall be deemed to be a part of, the Eagle Cap Wilderness as designated by Public Law 88–577.

SEC. 4. (a) In order to conserve and protect, in a substantially undeveloped condition, an area within the National Forest System in Oregon having unique geographic, topographic, biological, ecological features and possessing significant scenic, wildlife, dispersed recreation, and watershed values, there is hereby established, within the Umpqua, Williamette, Winema, and Deschutes National Forests, the Oregon Cascades National Conservation Area (hereinafter referred to in this Act as the "Conservation Area").

(b) The Conservation Area shall comprise approximately one hundred and thirty-three thousand nine hundred and fifty acres as generally depicted on a map entitled "Oregon Cascades National Conservation Area" dated November 1979. Except as otherwise provided in this section, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall administer and protect the Conservation Area in accordance with the laws and regulations applicable to the National Forest System so as to enhance scenic and watershed values, wildlife habitat, and dispersed recreation.

(c) Within the Conservation Area as designated by this Act—

(1) roads, except for existing Forest Roads numbered 398 and 399, shall not be available nor constructed for general public use: *Provided,* That nothing in this paragraph shall preclude the Secretary from constructing and maintaining such roads as he deems necessary for proper administration and management of the Conservation Area;

(2) the harvesting of timber shall not be permitted, except where the Secretary determines that such harvesting is necessary to control insects or disease or to protect the values for which the Conservation Area is established; and

(3) the use of motorized recreation vehicles may be permitted within the Conservation Area in accordance with the Conservation Area Plan developed by the Secretary pursuant to subsection (g) of this section. Such plan shall identify and designate specific and appropriate areas and routes for the use of motorized recreational vehicles within the Conservation Area.

(d) (1) Subject to valid existing rights, all mining claims located within the Conservation Area shall be subject to such reasonable regulations as the Secretary may prescribe to insure that mining will, to the maximum extent practicable, be consistent with the purposes for which the Conservation Area is established. Any patent issued after the date of enactment of this Act shall

convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe.

(2) Effective January 1, 1984, and subject to valid existing rights, the minerals located within the Conservation Area are hereby withdrawn from location, entry, and patent under the United States mining laws and disposition under the mineral leasing laws.

(e) Within the Conservation Area, the Secretary may permit, under appropriate regulations those limited activities and facilities which he determines necessary for resource protection and management or for visitor safety and comfort, including—

(1) those necessary to prevent and control wildfires, insects, diseases, soil erosion, and other damaging agents;

(2) those necessary to maintain or improve wildlife habitat, water yield and quality, healthy silvicultural conditions, forage production, and dispersed outdoor recreation opportunities;

(3) livestock grazing, to the extent that such use will not adversely affect the resources of the Conservation Area;

(4) visitor use facilities such as fire grills, tables, trail shelters, toilets, campgrounds, drinking water developments, signs, exhibits and other facilities needed to guide or instruct visitors or to interpert special features; and

(5) public service land occupancies, including those for power transmission lines, but only where there is no feasible alternative location, and, in the judgment of the Secretary, there is a clear public need.

(f) The following lands within the Conservation Area are hereby designated as wilderness in accordance with subsection 3 (c) of the Wilderness Act, and shall, notwithstanding any other provision of this section, be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act: Certain lands in the Umpqua and Willamette National Forests which comprise approximately fifty-five thousand acres, are generally depicted on a map dated November 1979, entitled "Mount Thielsen Wilderness—Proposed" and shall be known as the Mount Thielson Wilderness.

(g) Within two years after the date of enactment of this Act, the Secretary shall prepare an integrated management plan for the Conservation Area and the wilderness area designated by this section. The plan shall be prepared in accordance with the applicable regulations and guidelines promulgated pursuant to the National Forest Management Act of 1976.

SEC. 5. (a) Notwithstanding any other provision of law, with respect to lands within the National Forest System in Oregon which have been studied as a part of the Secretary of Agriculture's Roadless Area Review and Evaluation Program (RARE II) and which are not identified by the Secretary for further planning, not designated as wilderness by section 3 of this Act, or not included in the Conservation Area by section 4 of this Act—

(1) Congress does not intend to designate any of these lands for inclusion in the National Wilderness Preservation System;

(2) these lands shall continue to be available for uses other than wilderness under the existing Forest Service plans applicable to the national forest within which such lands are located, or under such plans as amended or hereafter modified; and

(3) no department or ageny of the United States shall study these lands for the single purpose of determining their suitability or nonsuitability for inclusion in the National Wilderness Preservation System.

(b) Nothing in the land management planning process required by section 6 of the National Forest Management Act of 1976 (16 U.S.C. 1604) shall be deemed to preclude multiple use management for uses other than wilderness on any land subject to such planning process.

(c) The enactment of this legislation shall be conclusive as to the legal and factual sufficiency of the environmental impact statement prepared relative to RARE II with respect to National Forest System lands in the State of Oregon and no court shall have jurisdiction to consider questions respecting the sufficiency of such statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–61).

SEC. 6. Subject to valid existing rights, each wilderness area and wilderness addition designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 7. As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area, wilderness addition, and Conservation Area designed by this Act shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCHMITT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow under the standing order, Mr. SCHMITT be recognized for not to exceed 15 minutes, after which the Senate resume consideration of the windfall profit tax measure, H.R. 3919.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the majority leader.

LEGISLATIVE SCHEDULE

SATURDAY, DECEMBER 1—AIRPORT AND AIRWAY SYSTEM IMPROVEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on this coming Saturday at 10 a.m. the Senate proceed to the consideration of Calendar Order No. 445, S. 1648, a bill to provide for the improvement of the Nation's airport and airway system.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

SATURDAY, DECEMBER 1—SOCIAL SECURITY ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon disposition of S. 1648 on Saturday the Senate proceed to the consideration of Calendar Order No. 438, H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability to the disability insurance program.

Mr. STEVENS. That is the disability insurance program.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONDAY, DECEMBER 3—CRUDE OIL WINDFALL PROFIT TAX ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if action on S. 1648 and H.R. 3236, either or both, is not completed, and there are time agreements on both, that on Monday the Senate resume consideration of the windfall profit tax bill.

Mr. STEVENS. Mr. President, reserving the right to object, is it the majority leader's intention to have those bills set aside to continue with the windfall profit tax bill and then to resume consideration of whichever one of those bills was not finished, under the same time agreement in the following week, or how soon?

Mr. ROBERT C. BYRD. Yes. I shall answer by asking unanimous consent that if action on either or both of those bills is not completed on Saturday the Senate on Monday, following the recognition of the two leaders or their designees, resume consideration of the windfall profit tax bill, H.R. 3919, and that the uncompleted action on either or both of the bills for this Saturday be carried over to the following Saturday.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

CONVENING TIME THROUGH MONDAY, DECEMBER 3

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate convene daily this week at 10 a.m.; that on Saturday the Senate convene at 9:30 a.m.; and that on next Monday it convene at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RECESS DAILY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business each day daily throughout this week, including Saturday, it stand in recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RECESS FROM SATURDAY, DECEMBER 1, 1979, UNTIL 10 A.M., MONDAY, DECEMBER 3, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business Saturday it go over until Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

RECESS UNTIL 12 O'CLOCK MERIDIAN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 noon today.

There being no objection, the Senate, at 11:27 a.m., recessed until 12 o'clock meridian; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and it will be a live quorum.

The PRESIDING OFFICER (Mr. BOREN). The clerk will call the roll.

The legislative clerk called the roll and the following Senators entered the Chamber and answered to their names: BOREN, BUMPERS, ROBERT C. BYRD, GARN, and HELMS.

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.) the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Iowa (Mr. JEPSEN), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 72, nays 1, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—72

Armstrong	Garn	Nelson
Baucus	Glenn	Packwood
Bellmon	Hart	Percy
Bentsen	Hatch	Pressler
Biden	Hatfield	Proxmire
Boren	Hayakawa	Pryor
Boschwitz	Heflin	Randolph
Bradley	Heinz	Ribicoff
Bumpers	Helms	Riegle
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Schweiker
Chiles	Jackson	Simpson
Church	Javits	Stafford
Cochran	Johnston	Stennis
Cohen	Laxalt	Stevens
Culver	Leahy	Stewart
Danforth	Long	Stone
DeConcini	Lugar	Thurmond
Dole	McClure	Tower
Domenici	McGovern	Tsongas
Durenberger	Melcher	Wallop
Eagleton	Metzenbaum	Warner
Exon	Morgan	Young
Ford	Moynihan	Zorinsky

NAYS—1

Weicker

NOT VOTING—27

Baker	Hollings	Nunn
Bayh	Inouye	Pell
Burdick	Jepsen	Roth
Byrd, Harry F., Jr.	Kassebaum	Sasser
	Kennedy	Schmitt
Chafee	Levin	Stevenson
Cranston	Magnuson	Talmadge
Durkin	Mathias	Williams
Goldwater	Matsunaga	
Gravel	Muskie	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is present.

AMENDMENT NO. 688

The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, have the yeas and nays been ordered on the pending amendment?

The PRESIDING OFFICER. They have not been ordered on the pending amendment.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. What is the pending amendment?

The PRESIDING OFFICER. It is the amendment by the Senator from Louisiana to the amendment of the Senator from Arkansas.

Mr. MOYNIHAN. I thank the Chair.

Mr. LONG. Mr. President, I might want to move to table the Bumpers amendment, but I do not want to deny Senators an opportunity to be heard on it.

Of course, if that amendment were tabled, it would carry with it the pending amendment.

There might be Senators who desire to be heard on the Bumpers amendment. If so, I do not desire to cut them off.

Mr. BUMPERS. Will the Senator yield?

Mr. LONG. Yes.

Mr. BUMPERS. I appreciate the Senator's concern with those who wish to speak on either the phaseout or the amendment I have offered. I wonder if we could perhaps enter into an agreement. I am willing to vote at a time certain.

Mr. LONG. I would be inclined to make a motion to table in due course. But I do not want to deny Senators the opportunity to be heard. I would like to make that motion today. But I do not want to deny Senators who want to speak to that amendment the opportunity of speaking to it. It is a significant amendment. If they want to speak to it, I am not here to deny them their right.

Mr. BUMPERS. I wonder if the majority leader has a commitment made as to a rollcall. Apparently not, since we have had one vote already. Sometimes there is a commitment that there will not be a rollcall vote on the pending business until 2 o'clock or 3 o'clock on a Monday afternoon. I do not know whether or not any such commitment has been made. I personally would like to speak a little more on my amendment, even though the pending amendment is the Senator's amendment on the phaseout provision.

I think that perhaps three or four other Senators might like to be heard before a motion to table is made.

I have no desire to prolong this. I am perfectly willing to get the show on the road. But I do think there may be a few Senators who would like to be heard.

We might get a show of hands among those present as to whether anyone else wishes to speak.

Mr. NELSON. If the Senator will yield for a question, the pending amendment is the amendment of the Senator from Louisiana; is that it?

Mr. LONG. Yes, that is an amendment in the second degree to the amendment of the Senator from Arkansas (Mr. BUMPERS).

It was my thought, as manager of the bill, that before we vote on the pending amendment, I would like to move to table

the Bumpers amendment. If the Bumpers amendment is not to be tabled, I would like to insist on a vote on the pending amendment to the Bumpers amendment.

But prior to that time, some Senators may desire to speak on the Bumpers amendment, which is an amendment in the first degree to the committee amendment.

I would be glad to wait until they have made their speeches before I move to table.

Mr. NELSON. I have an amendment to the Bumpers amendment that I would like to call up at some stage. Is it the intent of the Senator to move to table before any amendments to the Bumpers amendment can be called up?

Mr. LONG. It would not be in order at this point, but if the Bumpers amendment is not to be tabled, obviously, we could vote on amendments to that amendment.

Mr. NELSON. I wanted the Senator to know that if the amendment that is pending is disposed of, I would like to call up an amendment to the Bumpers amendment. I do not need much time on it. but I would like to at least call it up.

Mr. BUMPERS. Is it the Senator's intention to move to table before any disposition is made of the pending amendment?

Mr. LONG. Yes. But I am not here to deny any other Senator any right he might have, any motion that he might want to make.

But some Senators might want to speak on the Bumpers amendment and, if they do, I certainly would like to accord that opportunity. They might want to speak on the pending amendment. That is fine, too. I have made my speech. I think I have addressed myself to both the pending and the Bumpers amendments.

Mr. NELSON. I am not clear about that. Does the Senator intend to dispose of the pending amendment before he moves to table the Bumpers amendment?

Mr. LONG. No, I do not.

Mr. NELSON. Then there would not be an opportunity to call up any other amendments.

Mr. LONG. If any Senator wants to offer an amendment to the bill, of course, that would take precedence. I believe under the rules that would take precedence to a vote on the Bumpers amendment, or the amendment to it.

That being the case, it would be in order for Senators to call up amendments. But if they want to call one up at this time, it would have to be to the bill, not to the Bumpers amendment, because the pending amendment is in the second degree.

Mr. NELSON. That is why I raise the question. I would like to call up an amendment to the Bumpers amendment. But it cannot be called up until the pending amendment is disposed of, one way or the other.

So is it the intention of the Senator from Louisiana to move to table before any other amendments can be called up on the Bumpers amendment?

Mr. LONG. Yes, it is. Because there are pending amendments, in the first and second degrees, to the committee amendment, calling up amendments to the Bumpers amendment is the only legislative option that is foreclosed at this moment. If the Senator wants to offer an amendment to the bill, he may do so.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield.

Mr. METZENBAUM. The Senator from Louisiana is being very fair in not offering his motion to table until everyone has an opportunity to be heard, and I appreciate that. Therefore, I ask this question, with that thought in mind: Under those circumstances, would the Senator from Louisiana feel it inappropriate if one of us saw fit to offer a motion to table his amendment to the Bumpers amendment?

I do not want to be unfair to the Senator from Louisiana, who is trying to be fair to the other Members of the Senate.

Mr. LONG. The Senator has that right.

Mr. METZENBAUM. The Senator from Louisiana would not feel that out of line, in view of his fairness in permitting debate to continue?

Mr. LONG. I seldom pass judgment on Senators making whatever motion they think is appropriate. If the Senator wants to make a motion, that is his privilege.

Mr. METZENBAUM. I would not want to do that without giving the Senator from Louisiana notice. I think the Senate might want an opportunity to have a test vote on whether or not we want a phaseout of the windfall profit tax. A motion to table the amendment of the Senator from Louisiana would provide the Senate with that kind of opportunity.

I would not want to do that until there was an adequate time for debate, but I would not want to do it precipitately to the Senator from Louisiana, without giving him advance notice.

Mr. LONG. I thank the Senator.

Mr. President, I believe the Senator indicated that he would like to speak. If the Senator would like to speak to either amendment, I will be happy to yield. I simply wanted to announce my position.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I should like to speak to the phaseout amendment which is proposed by the distinguished Senator from Louisiana, and I should like to do so in light of the developments over the weekend in Saudi Arabia.

We find the situation in which we, in the Senate, are debating whether or not there should be a windfall profit tax, how large it should be, and whether there should have been a windfall profit tax bill to begin with or whether there should be any windfall profit tax.

Now we find, from a completely separate area, Saudi Arabia, that the Saudi Arabians, our major supplier of imported oil, are saying to us, "You are not working toward an effective windfall profit tax bill."

We read this in the New York Times of November 25:

> Secretary of the Treasury G. William Miller said today that Saudi leaders were annoyed at American oil companies for failing to pass the benefits of lower Saudi prices along to consumers and that they might raise their prices as a result.
>
> Speaking after a day of meetings with King Khalid and key economic ministers, Mr. Miller told American reporters traveling with him that the Saudis "feel they have been taken advantage of by the oil companies."

To that, I can only say that the American consumer finds himself in the same position.

I read further:

> They feel the price they are selling at has not gone to the benefit of consumers and that it has been raked off by the oil companies," he said, "and they are very upset about it.

I can understand the Saudis being upset about it, because they have concern—and have publicly expressed that concern—about the fact that they were selling their oil at $18.50 a barrel and the American oil companies that were buying it from them were not passing that on to the American people but, instead, were increasing their price to a minimum of the world oil price of $23.50.

What an absurd situation. The Saudis are concerned that the American economy is in a runaway inflation situation. They are concerned that our economy cannot be stable unless we can hold down the inflationary spiral. So, in contradistinction to the other nations of the world which sell us oil, they hold down the price. They think that will help to hold down the inflationary spiral—which, I say parenthetically, has contributed five direct points to the full rate of 14 percent, and I do not know how many additional indirect points by reason of the ripple effect.

So what is happening is that Saudi Arabia is trying to keep the price of oil down in this Nation, trying to hold down inflation, but the American companies, according to the statement of the Secretary of the Treasury, have been raking off—that is his phrase—the American people.

Mr. President, I have difficulty comprehending the solution that the Secretary of the Treasury has come up with; because instead of coming back and saying to the American oil companies, "You owe it to the American people and you owe it to the Saudis to hold down the price of oil; that is your responsibility," what does he do? Instead of that, he tells them as follows, and I now quote from today's Wall Street Journal:

> The Secretary also criticized U.S. oil companies——

Good enough. What next?

> and indicated that the Carter administration wouldn't be upset if the Saudis take a bigger cut of their profits.

Is that not absurd? Is that not unbelievable—that he is on one of these great, big American Air Force jets, flying over to Saudi Arabia? The Saudi Arabians are telling him that the oil companies are charging the American people too much for their oil, and what does the Secretary of the Treasury suggest? He suggests: "Maybe you (the Saudis) ought to increase your price."

What kind of concern is this for the American people? What kind of feeling can the Secretary of the Treasury and

the Carter administration have? He said he was not speaking for the consumer. He says that the Carter administration would not be upset if the Saudis take a bigger cut of their profits.

What is the use of standing on this floor and talking about having punitive windfall profits taxes? What is the sense of just talking about taxing and taxing and taxing, which is another part of what Mr. Miller said on the trip, that maybe we will come back and add more taxes on to the price of oil? That, too, was reported in this morning's Wall Street Journal.

What about the American people—the people who are trying to find the money to pay for their fuel oil, the people who are trying to find money to buy gasoline to drive back and forth to work or to do the voluntary work they do? Is there no element of compassion, is there no element of concern, or do we think only of how we can charge the American people more and more and more?

So, while he is in Saudi Arabia, Mr. Miller suggests that maybe they should charge the oil companies more. What kind of delusions does he have? What is he dreaming about? Does he truly think that is going to be effective in bringing about conservation in this country?

The price of oil has gone from $2 a barrel to $23.50 and $25 a barrel. The price at the gasoline pump has gone from about 35 cents or 40 cents to $1, $1.07, and $1.10, and the American people are not cutting back.

It is true that a little less has been used because more people are buying Volkswagens and Mazdas and other imported automobiles, and more American manufacturers are getting the message and are starting to convert to the smaller cars, such as the Chevrolet Citation. But the fact is that the American people want their automobiles and want to drive them. Whether you raise the price to a $1 or $1.25 or $1.50 or $2, you are not going to cause much conservation in this country, and it is time the administration got that message and got it loud and clear.

It is time that there be some element of concern for the people of this country. We talk about what we are going to do about fighting inflation. Every politician on the street talks about how we have to fight inflation and every American is concerned about how we fight inflation. You cannot win the battle against inflation as long as the administration policy is to push oil prices higher and higher and higher, whether it is by giving the oil companies more profits or whether it is by telling the Saudi Arabians that they should increase their prices. It is so totally ludicrous that it is hard to believe. If you did not read it in the Wall Street Journal, the New York Times, and in other reputable papers throughout the country, you would think that someone was pulling your leg; it must be a great joke. Only this joke is a joke on the American people.

We are going to argue out here for days on end, and we are now debating the Long amendment to phase out windfall profit taxes. We should not be phasing out windfall profit taxes. The first thing we should do is the President should withdraw decontrol until we send him a bill that has some teeth in it, is strong and has some real effectiveness and protection for the American people.

What is so magical about a phaseout in 1990? What is going to happen in 1990 to cause the American people to have to do more and more and more for the oil companies? There is plenty of decontrol in effect without the President's act. The fact is why should the oil industry after 1990 keep 100 percent of the OPEC price on oil that has been coming up out of the ground for years? And a great deal of that oil comes out of the ground in the waters that are offshore on the lands and waters owned by the American people.

We are not talking about a depressed industry. We are talking about an industry that is having a problem trying to make ends meet. This is an industry that has a surplus of cash and surplus of riches, so much so that they spend it day in and day out looking for new kinds of businesses to acquire.

The only thing good about 1990 is that it is not here today. But in 1990 why should there be a phaseout? Why should there be a phaseout at any point of windfall profits? The oil companies are not deserving of them. They did not earn them. They only come about by reason of one stroke of the pen by the President.

A phaseout creates an incentive for the industry to hold back their production until after 1990. If ever there were a counterproductive proposal made in the Chamber of the Senate, it is one to phase out windfall profit taxes. If you phase it out, you do not have to be a genius to understand that tomorrow your oil is going to be worth more than it is today because you are not going to have to pay as much taxes on it.

So how can we, who talk about more production and talk about our concerns during the eighties, seriously consider phasing out a windfall profit tax that gives a message loud and clear to the oil companies that if you wait just a little longer you will pay a lot less in taxes? That certainly will not help this Nation. That actually will drive up prices even that much more because there will be that much greater shortage.

We can decide a phaseout if someday it becomes necessary to do so. We can talk about a phaseout when production is running at a point that we think it is the only fair thing to do for the oil industry. But there is not any reason under the Sun—and that includes my distinguished friend from Louisiana who is so expert in this field—for us to put an amendment in this legislation that is going to hurt our country as much as the phaseout would.

It will hurt us in the fact that we will not have those dollars available to the Federal Treasury. It will hurt us in that the oil companies will be holding back their production. It will hurt us in that it will be inflationary and there is not any good logic or reason to do so.

That is the reason that I think the Senate should at an appropriate time have an opportunity to indicate its view that this is not a measure that it looks with favor upon, and that is the reason at an appropriate time I will offer a motion to table the pending amendment. I shall not do it now.

Mr. DOLE. Mr. President, I take this time to indicate that I do not agree with the amendment offered by the distinguished Senator from Arkansas, Senator BUMPERS. There are a number of flaws in the Bumpers amendment, but I only suggest that if we are really concerned about an energy problem, and we did make certain exemptions in the Finance Committee—as I recall the vote on newly discovered oil was nearly unanimous, maybe there was one negative vote on exempting newly discovered oil—under the Bumpers amendment that exemption would go by the boards. The President requested that we exempt heavy oil, and that was done in the Finance Committee bill, not in the House. That would go by the boards. Oil produced from tertiary or enhanced oil recovery projects was exempted by the Senate committee, I think with a fairly substantial vote. Again the heavy oil as I recall was unanimous. I do not know of any dissent on exemption of heavy oil requested by the President.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. DOLE. I yield to my chairman.

Mr. LONG. Is it not true that the vote on exempting the heavy oil involves exactly the same principle as the vote on tertiary production? That is, you are talking about something that is far more expensive to produce than oil is generally. Therefore, it was recommended by the President, in view of the fact that this so-called heavy oil had to be heated in order to get it up to the surface or had to be treated with chemicals, it was desirable to decontrol and not to put the windfall profit tax on it. That was the President's recommendation.

Does not exactly the same principle apply when we are talking about incremental tertiary production? That is a situation, just as it is with heavy oil, in which it is very expensive to produce. Does not every element of logic that suggests that heavy oil be exempted also suggested that tertiary production be exempted?

Mr. DOLE. That is the way the Senator from Kansas understood it. The committee had 5 or 6 weeks of executive sessions and hearings and the heavy oil recommendation was made by the administration. I may be incorrect. But I do not know of any dissent on the exemption of heavy oil.

Mr. LONG. The vote as I recall was 14 to 2 in the committee.

Mr. DOLE. It was a very strong vote.

With reference to newly discovered oil, according to all the studies a tax on newly discovered oil will retard production. This was supported by statements by experts before the committee. If we are going to retard production, then the country will have to make up the shortfall by more imports. Most Americans understand today, if they did not understand last week or the week before or month before or 6 months ago, that we must stop our dependence on imports. We have to reduce our dependence on oil imports.

I hope the crisis in Iran, wherever you may look, leads us to the view that it is

incumbent upon us to make certain that we leave adequate incentives so that we can try to make up some of the shortfalls through new production.

There is uncertainty associated with any estimate of future discoveries. I do not think anyone knows with any certainty how much oil reserves we have or how much oil there is that has not been discovered. However, in testimony before the Senate Finance Committee on June 11, an oil industry spokesman estimated future domestic crude oil discovery volume at 60 billion barrels.

It should be noted that the U.S. Geological Survey estimates the undiscovered domestic oil at between 50 billion and 100 billion barrels. We must provide incentives. The committee bill in its wisdom, provides the correct approach.

Certainly the costs are higher for newly discovered oil, just as the distinguished Senator from Louisiana pointed out they are higher for heavy oil and oil recovered from tertiary techniques.

The committee also—and I know it is controversial and probably will be the subject of some discussion—exempts certain stripper wells producing 10 barrels or less when produced by an independent.

There must be some incentive to preserve the resource of these very small oil wells that are not very profitable. In some instances the wells average less than half a barrel a day production.

In the State of Kansas, for example, the average stripper well produces about 3 barrels per day. The total produced in Kansas in a year's time is about 56 million barrels or about 1 week of what we import into this country. It is a resource, and we are happy that we have it in the State of Kansas. We wish we had more because we want to help meet our energy needs. That is another reason why if we adopted the approach of Senator BUMPERS, the exemption for that category would be eliminated.

Mr. President, the amendment introduced by the Senator from Arkansas will accomplish many things. However, two things come to mind. First, it will reduce the tax on flowing oil, that is existing production, and it will increase the tax on oil that has not even been discovered. The amendment is bad policy. It will inhibit future production.

Mr. President, the amendment indicates very clearly that there are a number of individuals in this Chamber who are not interested in providing fuel to heat homes, propel our automobiles, and turn the wheels of commerce. There are those who would like to, for some unknown reason, dismantle the oil industry. There are those who would like to raise more and more taxes to distribute for dubious projects. Whatever the case, the result is more Government, more regulation, and more taxes.

Everybody is looking for an enemy, and they have found the enemy, he is the oil industry. They are a nice, easy target, a big target. They are making profits, so it is easy to stand up and criticize the oil industry.

There are those who would like to raise more and more taxes to distribute for other dubious projects. A couple of weeks ago in this very Chamber the Senate passed, not with this Senator's vote, a public corporation that is going to spend about $88 billion over the long run in public money in the energy business. I suggest when that gets going full tilt, you are going to see more Government, more bureaucracy, and probably not much else.

And for those who find fault with the operation of the post office, I would suggest have you ever thought of buying your gas from the post office? Because if we just create another giant corporation and fund it at about $88 billion—the consumer will pay.

Mr. President, the Senate Finance Committee has been criticized for watering down the windfall profit tax. That is an almost unbelievable charge.

If one thing is certain, the Crude Oil Tax of 1979 will generate enormous revenues for the Federal Government. This is clearly the largest tax bill which has ever been considered by Congress. Its impact will change the course of economic and social events of the country for decades to come. In the next 10 years, at least $138 billion will accrue to the Federal Government from the net windfall profit tax. This is in addition to the almost $400 billion that will be added to the Treasury because of the Federal income tax and increased royalty payments. Thus, the Federal Government will be the greatest beneficiary of any "windfall profits" that might be generated.

Again the $400 billion is a conservative figure that will be added to the Treasury because of the Federal income tax and the increased royalty payments paid by those in the oil industry which will result. So that is only $538 billion over the next 10 years, and that is a conservative estimate, and that is all coming from the oil industry.

For those who want to zap the oil industry that is a pretty good amount.

If the amendment now being considered is adopted, the windfall profit tax would almost double.

The windfall profit tax concept was first proposed, the administration was considering raising somewhere in the neighborhood of $50 billion. Last summer, the administration wanted $140 billion to fund their entire energy program. I might add about $20 to $25 billion of the $140 billion was a diversion of increased income taxes resulting from decontrol.

It just seems to me that the thirst for Federal revenue is unquenchable. Everybody wants more and more.

I noticed Saudi Arabia endorsed a windfall profit tax. They did not go into detail. They did not discuss tertiary or heavy oil or newly discovered oil, they did not discuss stripper production because they do not have it in Saudi Arabia. Now Saudi Arabia has told us in the Senate what we should do.

Mr. WALLOP. Mr. President, will the Senator yield for a comment?

Mr. DOLE. I would be pleased to yield.

Mr. WALLOP. I was amused, and a little bit shocked, that a foreign government would seek to interject itself into the affairs of the U.S. Senate, and I frankly doubt that they did. But, on the other hand, if they did it only bears out what the Senator from Wyoming has been saying. The reason why the Saudis would endorse the windfall profit tax is because it continues to make it a more attractive business deal for American oil companies to search for and develop and broker foreign oil than it does to look for and produce American oil. This is because the windfall profit tax is not going to tax those oil company profits that the Secretary of the Treasury was talking about.

Either the Secretary of the Treasury does not know anything about the windfall profit tax or he has deliberately set out to deceive the public of the United States. I say this because the windfall profit tax is not going to touch the profits of international oil companies he was talking about, and by taxing the producers of domestic oil we are making it obviously a much better deal for people to continue to increase our reliance on foreign sources; namely, the Saudi Arabians. So if they endorsed the tax, I can see why. It is the best deal they can find in town.

Mr. DOLE. I certainly agree with the Senator from Wyoming. The tax applies only to domestic oil, so I do not really understand their interest in our domestic policies. But the reason the Senator has given—and I do not suggest the Secretary of the Treasury does not understand the tax. In any event, I thought it was at least unique that they would be commenting on domestic tax policy.

Mr. WALLOP. Mr. President, if my colleague will yield one more time, I cannot help but think that the Saudis are intelligent enough to know what kind of tax bill this is. I doubt seriously that the Saudis think it is going to take care of the international oil companies profits mentioned in Secretary Miller's comment.

Now, he may not have made such a remark, but there has been no clarification from the Treasury on it. We called and asked for a clarification, and they have not seen fit to offer one.

The plain fact is that both Saudi Arabia and the Secretary of the Treasury were talking about a tax bill that is not in front of the Senate.

Mr. DOLE. I think it is fair to say the Saudis—and, of course, they are friends—did not comment on any specific proposal. They talked about a windfall profit tax. I assume everybody would be for a windfall profit tax. It is difficult to have a windfall profit tax on newly discovered oil. You cannot have a windfall profit on something you do not have. But that is not the approach we took in the Senate Finance Committee.

I will say that—the bottom line—and I read the Washington Post yesterday about all these little phrases going around Washington, and this is a good one, the bottom line—is whether or not the country wants more production or more taxes. We can impose taxes, and we have demonstrated that ability on this floor many times. The American people pay them every day. Are we going to im-

pose another $500 billion in taxes or another $700 billion or more?

But there are some in this country who may be concerned about revenues but are also concerned about energy. It was the thinking of this Senator, at least, in the Senate Finance Committee there should be some balance. There will be a tax. There are some Members of this body who do not want any tax and, I assume, at the appropriate time, the Senators are going to be debating that point at length. There are some who say it is heresy to advocate a tax and come from an oil-producing State, a small oil-producing State. I am realistic enough to know that there has to be a balance between some reasonable tax and energy production.

Where is that balance? It seemed to most of us on the Senate Finance Committee that we found the balance. There are more nonoil-producing States represented on that committee than there are oil-producing States. So it was not a bill shoved down the throats of nonoil-producing States represented on that committee. It was a nonpartisan approach to the energy problem.

There are some on the Republican side who do not believe we should have any tax. There are some on the other side, the Democrat side, who probably do not believe there should be any tax. There will be a tax. There probably should be a tax. But there should be a balance. Congress should not tax oil to a point where we do discourage production.

Now, estimates provided to the members of the Finance Committee indicate that about 4 million barrels of oil a day could be produced in the late 1980's without a windfall profit tax. That is 4 million barrels a day we will not have to import. That is a lot of oil. So, those who say we should not have any tax make a good argument. If you are concerned about energy, let us not have a tax. Let us go out and just produce and produce and we will get up to 4 million barrels.

But now we are considering an amendment that would destroy any benefit from oil decontrol. The version of this bill that came out of the House of Representatives would, if enacted, destroy domestic production of 2 million barrels of oil a day by the late 1980's. The bill of the Finance Committee, while an improvement on the House version, would reduce it 1 million barrels a day over decontrol with net tax. We went halfway. We said, "The House went too far. We will go halfway."

The reason is very simple. Profits do provide and attract capital which, in turn, finance the exploration for and production of more oil. Tax the profits away and we will tax capital away, and this means we produce less oil.

Now, where is the cutoff point? Where is this balance? Where is the balance that is being sought? Certainly the Senator from Arkansas (Mr. BUMPERS) is trying to find a balance. The Senator from Ohio (Mr. METZENBAUM) wants a balance. The Senator from Kansas wants a balance. Where do we find this balance, recognizing that the easiest target in town and the best politics is to stand up and kick around the oil industry. But it does not do much good to say, "Well, if we had the product, you could buy it for half of what it is today. We do not have it. But if we ever have it, you could have it at bargain rates."

This Senator does not believe the American consumer will buy that argument when they cannot find the product, whether it is gasoline, or heating oil. So we had an obligation and we had one in the Senate Finance Committee. We spent about 85 hours in markup sessions debating the bill in the committee.

I hope there is enough confidence in the Finance Committee to table the House bill. There can be differences. There are differences; there should be differences. But I do believe that if you look at the diversity on the committee and the final result of a 15-to-1 vote that was agreed to, there indicates a great deal of support.

We addressed the tax side, we addressed the production side, and we addressed tax credits through the efforts of the distinguished Senator from Oregon (Mr. PACKWOOD). We addressed low-income assistance, as we should have addressed low-income assistance. We addressed mass transit. We looked to the efforts of the distinguished Senator from Delaware (Mr. ROTH) in creating a trust fund to put a freeze and to roll back social security taxes.

So it seems to this Senator that we have acted responsibly in the committee. But where is that cutoff? Do we want 4 million additional barrels of oil a day? If that is the case, we would not have any tax. And that is what some on this floor will argue tomorrow or next week or the following weeks.

Do we want 2 million barrels a day? Do we want 3 million or 2 million barrels a day? It seems to me that the Senate Finance Committee came down in the middle with a rather fine and delicate balance. We exempt certain categories of oil on the theory that they were high costs. We exempt, as I said, newly discovered, tertiary, stripper, and heavy oil as advocated by the President.

I only hope that when the vote to table the amendment comes, if it comes, that we keep this in mind.

The Senator from Kansas knows of the interest of both Senator BUMPERS and Senator METZENBAUM in production. We share the same interest in production. We may see it differently. The final judge will be the total membership of this body and, finally, the conference which I hope will take place soon.

But it seems to me that we could make some progress and I hope we can move quickly on this matter. During the consideration we had a lot of advice. We had testimony from the private sector, as we should have had, and we had advice from the private sector. There were even a few lobbyists around from the oil industry. I do not know where this big oil lobby is. They must be a secret organization. However, a few did show up.

The Treasury Department was represented. As I indicated earlier, the administration was represented through the Treasury and through the Department of Energy. They had different estimates right along. They keep going up and up and up, because it looks so easy to keep raising money.

And we have had staff assistance and we have had the Joint Committee on Taxation. I think, all in all, we have had a lot of diverse but objective input. And then we tried to act as the judge or jury to determine which would be the best way to go.

Mr. President, during the Finance Committee's consideration of this bill, we had the Treasury Department and an outside expert prepare an analysis of the relative percentage that Federal, State, and local taxes, including the proposed windfall excise tax, will claim of the income resulting from decontrol.

This analysis revealed that the Federal and State governments will be by far the greatest beneficiaries of decontrol. Under the 60-percent windfall profit tax provided by the House bill and assuming no reinvestment by the producer, the Federal Government will receive approximately 77 percent of an individual producer's additional income from decontrol. State governments will claim about 13 percent of the decontrol income. The share of a noncorporate producer—that is the person who has taken all the risk and actually produced the oil—is only about 10 percent of the income from decontrol. Thus, under a 60-percent windfall excise tax, the individual producer will receive only one thin dime for each dollar of decontrol income. This is hardly a bonanza for oil producers, but it is a bonanza for Federal and State governments which will be awash with decontrol income.

Mr. BOREN. Will the Senator yield?

Mr. DOLE. I am happy to yield to the distinguished Senator from Oklahoma.

Mr. BOREN. I have been listening to the comments of the Senator from Kansas, and I certainly agree with the thrust of what the Senator is saying. I was also listening on both today and on Tuesday, to the comments by the Senator from Ohio (Mr. METZENBAUM) and the Senator from Arkansas (Mr. BUMPERS) in regard to his amendment and also the pending amendment to it. Most of the discussion that I have heard from the proponents of the original amendment by the Senator from Arkansas (Mr. BUMPERS) has been about the profits. We heard the statement allegedly made in Saudi Arabia over the weekend.

I wonder if the Senator could help me with this, because I have difficulty in understanding it.

Of course, we know the oil companies' profits are within two-tenths of 1 percent of the average for all manufacturing in this country for the past 2 years, anyway, so I do not see any reason for concern. But let us assume there were some reason for concern over the amount of profits recently earned by the international oil companies. The analysis of those increases, over the past 9 months, indicates that 80 percent of the increases are due to the overseas operations, overseas production, and overseas marketing by these international companies.

Now, if it is an overseas operation, I wonder if the Senator from Kansas can

help me understand how in the world it is going to help stop excessive profits on overseas operations to tax the domestic production of crude oil in this country, much of it being done, much of the oil being produced by the independent producers, who not only do not own any pipelines, refineries, or retail outlets, but they certainly do not own any overseas oil operations.

How are you going to get at the overseas profit by putting a tax on domestically produced oil? Would it not make more sense to put a tax on oil we are bringing in from overseas, that is produced overseas? Why in the world, because some people are upset with the profits the international companies are making on their overseas operations, should we put on a tax that would harm independent domestic producers?

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. BOREN. Can the Senator from Kansas tell how putting a tax on domestic independent producers with no foreign operations will help stop excessive profits on overseas operations of international companies?

Mr. DOLE. Mr. President, I have the same difficulty the Senator from Oklahoma is having in trying to make any sense out of that.

I think it is uncontroverted that the noncorporate producer now gets about one thin dime out of every dollar after taxes, after the State tax and after the Federal tax. I believe if we wanted to we could take it all, but it seems to me what we in effect are doing is sort of driving the industry overseas by just loading it up with taxes and adding other burdens on domestic production.

This Senator has said there would be no tax. I have also said some do not want a tax; but there has to be a limit, as the Senator from Oklahoma has pointed out. There are all kinds of figures. I am not here to defend the oil industry; they can do it on their own. They do not do it very well, but they could.

But let me point out a few facts:

Over the last decade, the oil industry's return on stockholders equity averaged 13.9 percent compared with a 13.7 percent return for all manufacturing companies—and this includes the abnormal years 1973 and 1974 when oil companies rate of return rose sharply. The oil industry's rate of return was below that of total U.S. manufacturing in 5 of the 10 years. Oil companies were below nonoil companies in each of the last 3 years.

The Treasury Department's own testimony to the Finance Committee confirmed that the oil industry profits have not been extraordinarily profitable and generally have been slightly below nonoil manufacturing corporations. For example, the Treasury Department pointed out that in 1977 while all nonoil companies sampled had an aftertax rate of return of 14.8 percent; oil extraction companies earned slightly less, 14.7 percent; and integrated oil and refining companies still less, 13.5 percent.

During the first 9 months of 1978 the return on stockholders equity for 25 top oil companies trailed investment returns in other U.S. industries. The oil companies return was 13.3 percent last year compared to a 16.1-percent return for the nonoil companies. In the current year's 9-month period, the oil companies return rose above that of the nonoil companies. The return on stockholders equity for the 25 oil companies was 21.3 percent compared with 16.8 percent for 77 leading nonoil companies. A Citibank analysis of industries with a high return on net worth in 1978 demonstrated that the oil industry's profitability is far below a number of other industries.

Let us take, for example, return on net worth:

For the oil industry, 14.3 percent.

Soft drinks, 22.8 percent, I do not have it for beer saloons.

Office equipment, computer, 22.5 percent.

Building, heating, and plumbing equipment, 21.9 percent.

Drugs and medicines, 21.5 percent.

Soap and cosmetics, 20.8 percent.

Baking, 20.1 percent.

Tobacco products, 19.8 percent.

Lumber and wood products, 19.7 percent.

Cement, 19.7 percent.

Aerospace, 19.7 percent.

As the Senator from Oklahoma just pointed out, foreign operations have been the principal source of oil industry earnings growth. Oil company earnings in the United States compared with their earnings abroad show that domestic operations are relatively less profitable this year.

A detailed analysis on 12 large oil companies indicated that nearly 80 percent of profit growth in the third quarter of 1979 was derived from foreign operations.

Mr. BOREN. Will the Senator yield again, just at that point?

Mr. DOLE. Yes.

Mr. BOREN. I wanted to point out, when we were talking about it being puzzling why those concerned with overseas profits would be supporting this bill that, as the Senator from Kansas well knows, this is not a tax on profits, anyway; this is an excise tax on domestically produced oil, and the tax will work out—depending on the tier of oil we are dealing with, it may be a $4-a-barrel tax or it may be a $3-a-barrel tax, but that tax is on a barrel of oil, and not on profits. That tax will be levied on every domestically produced barrel of oil, whether a company has 5 percent total profit or 15 percent total profit.

What I cannot understand, again, is if this is an excise tax and not a profit tax on domestically produced oil, how in the world putting a tax of $3 or $4 a barrel on oil produced within the United States would do anything to reduce the profit on overseas oil operations by international companies, since it is not a tax on their profits, and it is not a tax on the oil that they produce overseas, it is not a tax on the oil any company buys in Saudi Arabia and sells in Europe, for example, on the world spot market; it does not tax that at all. Yet it is those people who propose to put a tax on independent oil producers in Oklahoma, Texas, Kansas, Louisiana, Alabama, or wherever they happen to be. How in the world are they penalizing those companies, if they do not like what they are doing, by putting an excise tax on domestically produced oil? Can the Senator understand that?

Mr. DOLE. It is also puzzling to the Senator from Kansas. In the Finance Committee, we looked at all the options, including the option suggested by the Senator from Ohio and the Senator from Arkansas. As I said before, I do not question the motives of the Senators, although I do not agree with them. Fundamentally, their proposal does not make a great deal of sense. The figures that I just put in the RECORD demonstrate that 80 percent of the recent oil company profits come from overseas. We can keep taxing and taxing and taxing, but it will not affect that profit picture very significantly. It will simply drive everybody overseas. It will not create any jobs in this country. Essentially it will tell that little producer in Kansas, Oklahoma, and some in Ohio, "We are going to take 80 percent of your petroleum dollar, leaving you the remainder for more production." I must say that does not leave much incentive for more production.

It is hard to believe that the oil industry is the underdog in this battle, but they are indeed the underdog. They are the underdog because the American people do not like higher prices.

They are the underdog because we have been told night after night on the nightly news and day after day by the Wall Street Journal and other publications that the oil companies are making too much money. Anybody who stands up, not to defend the companies but to talk about energy production and some balance between the tax and production, is somehow in the hands of the oil companies, or better yet, in their back pockets.

That makes a better story.

As a result there has not been much objective debate. We have one group saying, "Sock it to them," and another group, which I hope includes many moderates saying, "There has to be some balance in the bill so that we do not take away all their money."

As the Senator from Oklahoma accurately observed, we can raise the taxes on domestic oil industries, but not if we expect to increase our oil production. Someone in my State suggested that we ought to impose a tax on the cattle producers because they are making a little money. Higher beef prices are indeed costing consumers more, so the rationale of this bill would suggest cattle producers should be subject to a special tax so we can get a little of their profits.

I do not claim that the OPEC price is a free price. Nevertheless if you have a product and somebody wants it, that demand will inevitably drive up the price. I understand the price of wood has tripled in New Hampshire because some people have it and other people want it.

We should be out finding more alternate sources of energy instead of focusing our attention on taxes, taxes, taxes. Sooner or later the consumers will get stuck with the burden of tax.

I do not know what is so bad about

leaving producers with a little more money. I still think we missed the boat by not including a plowback provision in this bill. Perhaps we will still have a chance to consider a plowback. I am convinced that such a provision would create jobs and find more energy. I regret the oil industry did not support some kind of a plowback provision. That does not mean, however, that we cannot offer a plowback provision, and we do intend to offer one later on.

Mr. BOREN. Some people have said they are alarmed about the money being made by those companies making automobiles overseas, that it is hurting our domestic automobile industry. We know our domestic automobile industry is in some difficulty and we are concerned about the loss of jobs in our domestic automobile industry. With the solutions being proposed here as we are concerned about our reliance on overseas petroleum, people are coming along saying tax the oil produced here but do not tax the oil produced over there. That is what this bill is, a tax on domestic oil.

That is like saying we are concerned about all these foreign cars being imported into the United States. We want to save the jobs of the carmakers in the United States, so as a solution let us not put any tax on cars that are being brought in from overseas, but let us tax every automobile made in the United States, about $5,000 per car, so that we can help the domestic auto industry keep our jobs here at home and quit buying all those cars from overseas because those companies are making profits on those cars they are making overseas. Let us solve it by putting a $5,000-per-car tax on every car produced in the United States.

Would that not be about the same kind of logic that we see here in terms of wanting to turn oil production back to this country, the energy production in this country? They say let us tax the production in this country and not tax the production in other countries.

I just do not see——

Mr. METZENBAUM. Will the Senator from Oklahoma yield for a question, reserving the right of the Senator from Kansas to the floor?

Mr. BOREN. I would be happy to.

Mr. METZENBAUM. The Senator from Oklahoma seems to be talking about the concept of this bill as an excise tax on domestic producers. Was the Senator not part of that Finance Committee, as well as the Senator from Kansas and the Senator from Louisiana, that brought to the floor of the Senate the bill that does the very thing about which he is now complaining?

Mr. BOREN. Surely I was part of that committee. As a member of that committee I offered amendments and supported amendments to try to reduce the tax on domestic production, where it would do some good to reduce it, on tertiary recoveries, to go back into the old fields, on stripper production, to prolong it.

As the Senator knows, in the legislative process, just because someone has said, "I think this proposal is less bad than another proposal" does not mean an endorsement.

I think the Senate Finance Committee bill is less bad. It will cause less discouragement of production than the House-passed bill.

Mr. METZENBAUM. But the Senator voted for it, did he not?

Mr. BOREN. I voted for it as the lesser of evils, which I think we find ourselves many times on the floor of the Senate confronted with, not with the choices we would like to make but with the choice of the lesser of evils.

Mr. METZENBAUM. Did the Senator from Oklahoma or any other member of the Finance Committee propose any amendment that would have directed itself to the concern which the Senator from Oklahoma has just mentioned, that is, that it is a tax on domestic producers and not on foreign producers? Did the Senator offer an amendment to that effect?

Mr. BOREN. Yes. In fact, I supported the amendment of the Senator from Texas that would have exempted independent domestic producers on the first 4,000 barrels per day of production. I think that would have been a great step in the right direction and would have caused us to stop penalizing the companies here at home who do not like what is being done overseas.

Mr. METZENBAUM. Did the Senator offer any amendment that would have taxed the foreign profits as well, as he has suggested ought to be the case?

Mr. BOREN. I did not offer any such amendment because I think we can use all the capital we can possibly gather as long as it is put back into production here at home. I think if we do not tax the domestic production as much we will be encouraging those companies to come back here and put it back into production.

Mr. METZENBAUM. How much would the Senator from Oklahoma say is enough? Would the Senator from Oklahoma remember when the price was $2 and the oil producers wanted $3 or $4, when it was $4 they wanted $6, and when it was $6, they wanted $8? The Senator from Oklahoma knows that the average cost to produce oil last year in this country was $1.83, and the average receipts were about $8.50. Now the price is far in excess of that. The price has now gone up on the world market to $23.50, and more. What would the Senator from Oklahoma say was an adequate price so that the windfall profit tax or some other tax ought to be applicable and that the oil companies were getting enough?

Mr. BOREN. I would say this to the Senator from Ohio, and I do not know how he calculates his figures per barrel——

Mr. METZENBAUM. My figures come from the administration study that they submitted to members of the Finance Committee.

Mr. BOREN. Let us look at the overall profitability of the companies. Over the past 10 years that overall profitability has been in the range of, I believe it is, 15 percent, 14 or 15 percent, within two-tenths of the average for all manufacturing. Even in this past year we had several basic industries, aerospace, forestry, some pharmaceutical products, broadcasting, newspaper publication, many other companies, that——

Mr. METZENBAUM. Is the return now actually running 23 percent for the oil industry and going up?

Mr. BOREN. Over the last 10 years the average is what you have to look at.

Mr. METZENBAUM. Would the Senator from Oklahoma say we are never going back to the last 10 years? We know things have changed in the world. We know there will never be $2 oil again.

Mr. BOREN. I will say this to the Senator from Ohio: All I am saying is let us look at the past decade, because 1973 was an unusual year, and this is an unusual year. If we follow the right policies in this country, quit sending all the money overseas, we will start encouraging domestic production. Let me say that we need to develop enough capital in this country. How much is enough? Enough to bring about our energy independence. That is how much we need. As the Senator knows, it costs money to drill an oil well; it costs money to build a solar energy panel.

Mr. METZENBAUM. How much does the oil industry need? When will they be satisfied?

Mr. BOREN. Let me ask the Senator a question. It costs money to dig a coal mine, to build a solar energy panel, to build a synfuel panel, as well as to drill an oil or gas well.

Now, if the money needed to do all of that to get us to domestic energy independence comes from the profits of the private companies, that is one way you can pay for it. You can develop energy supplies in this country from the profits and have the private companies do the job through the free enterprise system. Where else do you want to get the money? Do you want to raise taxes or get the American people to pay for it?

Mr. METZENBAUM. The American oil companies have so much money, they have tried to buy Ringling Brothers, Barnum and Bailey Circus, tried to buy life insurance companies, they have come to my community and tried to buy Reliance Electric for about $1.1 billion—an unbelievably high rate. They are just so loaded with money that they do not know what to do with it. Forbes Magazine had an article that said Exxon Co. has a problem with its excess cash flow of $4 billion to $5 billion a year. That article was written a year or two ago. It is certainly higher now.

Mr. BOREN. Has the Senator from Ohio also seen the projected exploration and development plans for next year of the companies?

Mr. METZENBAUM. I do not believe I have. They do not share that information with me.

Mr. BOREN. Many of the companies have made public their plans. I have seen several of them announced in the press and they are plans for spending billions of dollars.

We can get up and say $1.4 billion here, $2 billion there. But the fact is that, according to experts, it is going to take almost a trillion dollars—almost a trillion dollars—between now and the year

2000 to develop enough energy in this country to make us energy-independent and to maintain full employment for our people so that we shall have the energy to run the factories and the hospitals.

Now, where is the Senator going to get that $1 trillion to develop the energy supply for this country? Where does he want it to come from? If he does not want it to come from profits, and if the Senator wanted to propose an amendment to force the plowback of all profits into production, fine. I can be for that. But if the Senator does not want the money to come from profits, where is he going to get the money?

Mr. METZENBAUM. I point out to my friend from Oklahoma that, in spite of his protestations, in spite of the oil companies' wonderfully slick TV ads, in spite of their articles in the newspaper, their advertisements, the fact is that they are not meeting their responsibilities as far as putting their money back into exploration and development. In yesterday's New York Times, an article stated as follows:

The $10.1 billion that they plowed back into their operations consisted of $7.8 billion in capital outlays plus $2.3 billion in current expenditures on exploration and similar activities. In contrast to the 75 percent increase in profits, these "capital and exploration expenditures" increased only 13 percent over the amount laid out in the comparable 1978 period, though capital expenditures commonly lag profits in good times and lead them in lean times.

What they are doing with the difference is going out and trying to buy up American industry and they are being very successful about it.

The article further points out that of their profits, they are only putting about 50 percent back into exploration and development.

Mr. President, I ask unanimous consent that this entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 26, 1979]

OIL MONEY: WHERE IT IS SPENT

(By Anthony J. Parisi)

So far this year, the five largest American oil companies have earned a record $7.9 billion in profits, or 75 percent more than they made in the first three quarters of 1978. At the same time, according to their financial reports, they have poured $10.1 billion back into their businesses, roughly two thirds of which went toward finding and developing new energy supplies.

Thus it is probably true, as some oil companies contend, that the industry is spending more money to assure the nation's future energy supplies than it is currently reaping in profits. But this assertion is at best incomplete. The full picture of how the oil industry is using its money includes not only profits but also other components of cash flow, such as depreciation and depletion.

Using the cash-flow yardstick, the $10.1 billion that was reinvested by the five largest companies amounts to only a bit more than half of the $19 billion in funds available for such purposes during the first nine months of the year, the companies' financial disclosures show.

This is the main finding from a detailed analysis of the companies' financial statements undertaken by The New York Times after the oil companies reported huge gains in their third-quarter profits. Those profit increases, which exceeded even the sharply higher earnings of the two previous quarters, prompted widespread anger, suspicion and concern among the industry's critics.

OTHER DISBURSEMENTS

The analysis shows that, in addition to their capital reinvestments, these companies also paid out $2.7 billion in dividends, committed $1.9 billion to buy other companies and earmarked $1.5 billion for a variety of other disbursements. After all this, $2.8 billion still remained in their businesses as retained earnings.

The $10.1 billion that they plowed back into their operations consisted of $7.8 billion in capital outlays plus $2.3 billion in current expenditures on exploration and similar activities. In contrast to the 75 percent increase in profits, these "capital and exploration expenditures" increased only 13 percent over the amount laid out in the comparable 1978 period, though capital expenditures commonly lag profits in good times and lead them in lean times.

The companies covered by the analysis were the Exxon Corporation, the Mobil Corporation, Texaco Inc., the Standard Oil Company of California and the Gulf Oil Corporation. They were chosen not only because they are the biggest but also because they are the most integrated and most international of the domestically based oil companies. Together, they accounted for almost half of the $16.3 billion in overall profits reported by the top 25 domestic oil companies during the first nine months of the year.

The data came mainly from the 10–Q reports that the companies are required to file with the Securities and Exchange Commission each quarter. In addition, on request, the companies provided further details on the figures in these reports, which are themselves more detailed than the financial reports routinely sent to shareholders. Not all five broke out the figures in the same way, however, so some of these breakdowns had to be estimated.

The analysis showed the following:

About 40 percent of the companies' $7.9 billion in profits came from their domestic operations, yet more than half of their $10.1 billion in capital and exploration outlays was invested in the United States. Including acquisitions, the companies reinvested a total of nearly $12 billion domestically.

Worldwide, roughly two thirds of their capital and exploration expenditures went toward exploration and production of oil and gas, about 15 percent went into refining and marketing, 10 percent into other forms of energy and into non-energy operations and 5 percent into their chemical businesses. Of the $2.3 billion reported as current (as opposed to capital) expenditures, exploration itself accounted for $1.8 billion.

Profits provided less than half (about 47 percent) of the companies' total capital funds. The rest came from funds generated by depreciation charges and similar deductions (41 percent) and from a variety of other sources, including new borrowings and assets that were sold off (12 percent).

Similarly, the $7.8 billion in reinvested capital accounted for less than half (about 47 percent) of the capital funds at the companies' disposal. The rest went into retained earnings (17 percent), to shareholders in the form of dividends (16 percent), into acquisitions, notably Exxon's purchase of the Reliance Electric Company and Mobil's purchase of the General Crude Company, (11 percent) and toward paying off loans and making miscellaneous investments (9 percent).

Of the $2.8 billion in retained earnings that the companies reported, the biggest individual increase was Texaco's $1.2 billion, although Exxon's $691 million addition to capital reserves might have exceeded Texaco's if Exxon had not bought Reliance Electric. Even with that $1.1 billion purchase, however, Exxon reinvested $3.2 billion into its existing operations, or two and a half times as much as any of the other four.

THE DEPRECIATION FACTOR

In assessing a company's strength, financial analysts consider its cash flow more revealing than its profits alone, since cash flow covers other sources of funds, including borrowing. In particular, depreciation is a major source of additional investment funds.

Depreciation is simply a charge against current revenues to help recover the cost of assets that last more than a year. Where natural resources are concerned, depreciation is known as depletion, a charge to recover the cost of finding and developing those resources. The idea is to match an asset's cost with the revenues it helps to produce.

Suppose, for example, a company pays cash for a $10,000 truck that is expected to last five years. As it reckons its profits, it would deduct $2,000 each year as a cost until the $10,000 is recovered.

But unlike payroll expenses, for instance, or money spent on supplies, the yearly depreciation charge is not an actual cash outlay. The $2,000 remains at the companies' disposal, just as profits do. Ordinarily, analysts say, companies must invest at least an equivalent amount in new capital assets, or they will shrink.

Thus, when oil executives point out that the companies are spending more money than they make, some people think that means the companies must be going deeper into debt. They are not, at least not for that reason. Most industries, particularly capital-intensive ones, spend more than they make, simply because their depreciation expenses are so large that they make relatively little on each dollar of sales.

Mobil, for example, reported profits of $1.4 billion on revenues of $33.5 billion for the first nine months of 1979. During the same period, Mobil said, its capital and exploration expenditures totaled $2.4 billion, of which $2.0 billion went into energy.

But the company's cash-flow statement shows that $2.1 billion of the $2.4 billion total was capitalized—that is, entered on its balance sheet as an asset to be depreciated. Moreover, $782 million of the capitalized portion covered its purchase of the General Crude Oil Company, so only about $1.3 billion was money actually used to keep its existing operations going. Although Mobil made these outlays this year, the capitalized portion will be charged off in the years ahead, generating capital for reinvestment and for other disbursements as it is.

By the same token, in the first nine months of this year, Mobil charged against its earnings some $1.1 billion that it capitalized in past years. In addition, the company's cash-flow statement showed that $123 million in other funds were also available for disbursement during the first three quarters. These sums, coupled with its profits of $1.4 billion, provided Mobil with more than $2.6 billion in working capital during the nine-month period.

In all, Mobil took in enough money during this period to cover all its capital outlays. The company did not have to dip into its cash reserves and it did not have to borrow—even to acquire a sizable independent producing company.

Mr. BOREN. We are intruding on the time of the Senator from Kansas. May I ask one last question of the Senator from Ohio?

Mr. DOLE. Certainly.

Mr. BOREN. If the Senator from Ohio is right about everything he says, which he says he is and I think he is not—if he were, if he were correct that there are some major internationcal companies that are earning too much overseas—by his definition too much; if he were cor-

rect that he did not want oil companies buying up other kinds of business instead of putting this money back into more energy production—I want to see them put it back into more energy production, too. Suppose those two problems are real. Then, why does the Senator solve those two problems by taxing companies, independent domestic companies, for example, that are not buying up any other kinds of companies, that put back 105 percent, as the Senator knows, of their earnings for the past 10 years into production and exploration? They do not own anything overseas. How does he solve the problem by penalizing those people? Why does he not just propose an amendment to tax the profitability of overseas operations if he wants to do that, and put some limitation on the ability to use the profits to buy other kinds of businesses? Why put a tax of so many dollars on every barrel of oil produced by every single domestic company, including those that are putting back 105 percent of what they earn?

Mr. METZENBAUM. Because I believe that we should not permit the OPEC countries to set the price of oil in this country, although in this instance about which I spoke today, the OPEC did not set the price. They set it lower and the oil companies set it higher. The real question is how much is enough and how much do you need to reinvest?

Every time I go back to Ohio which is certainly not comparable to Oklahoma and not comparable to Louisiana or Kansas as far as oil exploration and development are concerned, I find somebody else sitting at a table having a bite to eat with me and telling me that he is now in oil and gas and he is now an independent developer of oil and gas, and telling me what a great business it is. I find people—one who was a newspaper publisher is telling me now he is putting together syndicates for oil and gas.

Yesterday, I had some fellow sitting next to me and he told me that he is now in oil and gas and he told me the various States he is in. He has no more knowledge of oil and gas from the past than one of these pillars in the Senate Chamber. But he has gone into it because the independents have been doing well enough at the prices presently set that they do not need any more. I think enough is enough. I think we had better start concerning ourselves about the destruction and devastation that we are doing to the American economy by just pushing prices of energy up, up, and up.

Mr. BOREN. Will the Senator from Kansas allow me one 30-second comment before I yield? I do not want to intrude on his time any more.

I want to say if we are getting more and more people to invest their dollars into the production of energy here at home, thank goodness. That is what our aim is. Our aim is not to produce more taxes. Our aim is not to produce more bureaucracy. That is all that has been produced out of this Nation's Capital in the last 5 years—more taxes, more bureaucracy.

Our aim is to produce something more for the American people. We might be beginning to see a glimmer that it is beginning to work, that people are investing their dollars into more energy at home.

I want to go on record as saying I am not in agreement with the Senator from Ohio. I am not against Americans investing more dollars into energy in the United States, I am for it. I am for our doing something that will get our neck out from under the boot of OPEC, and that is to produce more energy and I am delighted to see signs of it occurring.

Mr. LONG. Will the Senator yield?

Mr. DOLE. First, I want to comment that I hope the meal the Senator had in Ohio was hot, because that means somebody had some energy left to heat it up for him. We kept that energy going for him for several years.

I concur with the statement of the Senator from Oklahoma. There should be more people in this country investing in energy and we should not take away the incentive to do so.

I am happy to yield to the chairman.

Mr. LONG. Mr. President, in line with the point that was raised by the Senator from Ohio, I ask the Senator, is it not true that there are a lot of independent companies and independent individuals that are anxious to recruit capital to go into drilling ventures around the country and that they look for it wherever they can find it, including Wall Street, which is the capital market of the United States? So if we are permitting the industry to make the kind of profits that one hopes it would make, in a time of shortage, it should be attractive for investors to put money with small companies and even individual drilling ventures organized as partnerships that offer people an opportunity to invest money and take a fractional interest in the success of the venture. I ask the Senator, if we were doing what we should be doing would we not make it sufficiently profitable that people who have money to invest would invest their money into the effort to find oil and gas for the consumers of this country?

Mr. DOLE. I think the chairman is right, and I think the comments of the Senator from Ohio are very encouraging. It indicates that people are willing to invest their money if they can make a profit, even if they are in the newspaper business. That does not mean you should not make a profit, just because you are in the newspaper business. You have a right in this country to invest and to diversify. I do not know all the facts about Exxon and the proposed purchase of Reliance Electric. Nevertheless, when you are buying stocks, you do not just buy one stock, you try to diversify your portfolio and to hedge a bit. I suspect that is what Exxon is doing. In addition Exxon can use any profits from Reliance to put more into oil production.

But the chairman is right. That is why, even though we had to compromise a bit in the Senate Finance Committee, we came out with a balanced windfall bill, which leaves enough incentive to encourage more investment and, hopefully, more oil production. That is what we are really after—more oil production.

Mr. LONG. I say to the Senator, Mr. President, a couple of years ago, I happened to be in New York. I visited with a friend I had known for many years. He was working there, selling people investments in drilling ventures.

He told me over lunch that he had an appointment to talk to a wealthy person who had a lot of money to invest. He hoped he was going to persuade that person to invest in oil and gas ventures because he was specializing in putting together oil and gas ventures.

At that particular time, he explained, that it was hopeless because it would be a better investment for that wealthy person to put the money into tax exempt State and municipal bonds.

He said that he knew it was a better deal for that investor because he used to sell tax exempt State and municipal bonds.

All one had to do was some mathematics to see how it came out on the bottom line; the person would be much better off to put his money into tax-exempt securities.

That is the kind of investment I always thought we ought to have for little widows and people who could not afford to take a chance. The kind of people who are millionaires many times over, who have large amounts of money they inherit or make themselves, ought to be taking the chances to drill wildcat wells and to drill in areas where the investment has a very high risk. They are not the kinds of people who should be putting their money in tax-exempt securities when the Nation very much needs energy, if we are looking after the Nation's economy.

So, I say to the Senator, I share his views that it is good news, that at long last it is now attractive for someone who is looking for the areas where he can take a big risk, but where he might make a big profit if it is successful, to put his money in developing oil and gas.

Obviously, he will not put all his money in it, but a substantial investment would help. For altogether too long, it simply has not been a good place to put money.

Mr. DOLE. I again indicate that the chairman is correct. I mean, there are risk takers in our society. They are not a full-time anything. Some may be in some business, profession, or labor union. If they have a profit, are willing to take a risk and can afford it, it is, in some degree, a responsibility.

So I go back to my comment that I am encouraged by the comments of the Senator from Ohio who indicates the people in Ohio are beginning to understand there is an energy problem and some are beginning to invest.

Of course, Ohio has a little bit of production, about 16,000 little stripper wells. They produce less than about 1¼ barrels a day. They would be severely taxed by the so-called Bumpers approach. Maybe that is not much oil. It is only about 7 million barrels—that is 1 day of imports.

I think we want to keep all the production we have in this country, not tax them out of existence. So, Ohio is very important. One day—we can reduce our imports 1 day. We should double that production in the State of Ohio, double

that in Ohio and other States, by giving some incentive.

I notice a letter to our colleagues dated November 16 and signed by eight of our distinguished colleagues—Senators METZENBAUM, BUMPERS, KENNEDY, NELSON, LEAHY, BIDEN, EAGLETON, and RIEGLE. I am particularly interested in Senator RIEGLE'S signature on that letter. He is asking for help to bail out Chrysler, a giant corporation on the skids because of Government interference, to a certain degree, on emission standards and mileage standards.

I hope he would not try to do in the oil industry at the very moment he is asking us to help him in his efforts with another giant that is on its knees because of, perhaps, mismanagement. Their problem was not making a profit, but perhaps mismanagement and too much regulation.

But it seems strange we would have that letter the very day we are talking about whether or not we should impose a heavy burden on another giant private industry in America.

Mr. President, the record should contain the statement that it is hard to be objective because nobody wants to be objective. If one is for less tax, he is somehow for big oil; if one is for more tax, he is against big oil and for the American consumer; and somehow he is against the consumer if one does not want to tax too much. That is the politics of it.

But the costs have gone up. A few examples are that in Illinois there are some wells at about 3,300 feet. It cost, in 1973, about $21 a foot and is now up to $57. That is a 171-percent increase.

Let us look at west Texas where we go about 5,000 feet. It has gone from $12 a foot to $32.

In Kansas where we go sometimes to 4,500 feet to find three barrels of oil a day, the cost has gone from $11 to $33 a foot, a 200-percent increase.

The gulf coast, where we go down to 11,000 feet, it has gone from $49 to $144 a foot. The so-called Delaware Basin, $74 a foot to $180 a foot, east Texas, from $46 to $143, a 211-percent increase.

That is an increase in contractor's fees, drilling mud, cement and cementing, well logging, perforating and stimulating, and everything else.

Mr. President, I ask unanimous consent to have printed in the RECORD the Texaco, Inc., cost experience. It is information furnished by an oil company, which probably makes it suspect, but if it is in the RECORD people can study it. It might even be accurate. It is provided by Texaco, Inc.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXACO, INC., COST EXPERIENCE

TOTAL WELL COST, COMPLETED BASIS (DOLLARS PER FOOT) 1973-79

SCALE $5 INCREMENTS $10 TO $70

	Amount	Percent
3,300 ft Illinois	$21-$57	171
10,000 ft West Texas	22- 48	118
5,000 ft South Texas	17- 46	170
2,200 ft Sour Lake	17- 40	135
5,000 ft West Texas	12- 32	166
6,500 ft Oklahoma	13- 35	169
4,500 ft Kansas	11- 33	200
1,170 ft Electra	12- 20	66

SCALE $10 INCREMENTS $40 TO $200

20,000 ft Delaware Basin	$74-$180	143
11,000 ft Gulf coast	49- 144	194
9,100 ft East Texas	46- 143	211

COST INCREASES, 1973-79

Item	Range of percent increase
Contractors fees	110-190
Drilling mud	150-240
Cement and cementing	130-230
Well logging	186-250
Perforating and stimulating	116-180
Tubulars	95

Mr. DOLE. Finally, Mr. President, on May 7, 1979, Mr. Emil Sunley, Deputy Assistant Secretary of Treasury testified before the Senate Finance Committee. He supplied a variety of helpful statistics on the oil industry in this country. In view of some of the confusing figures that were given on the floor the other day, I thought it would be helpful to relate some of Mr. Sunley's information.

This is a governmental agency, the Department of Treasury. It is not tied in with any oil companies, small, large, middle, heavy, tertiary, stripper, newly discovered, or any other kind.

According to the Department of Treasury, companies that just engage in oil and gas extraction spent over 100 percent of their cash flow on capital outlays every year since 1971. The figures are lower for integrated petroleum and refining companies, although still substantially greater than the percentage of other manufacturing companies. In 1977, the last year for which data is available, oil and gas extraction companies spend 108 percent—108 percent—of cash flow on capital expenditures; integrated companies spent 92 percent; while other manufacturing companies spent only 62 percent. This is not the record of an industry that is hoarding, or salting away its profits, or going out buying up everything else in America as some on this floor would have us believe.

When we look at capital expenditures as a percent of net income the figures are even more dramatic. Salomon Bros. testified before the Finance Committee in July that the 33 oil companies in their study have invested in their business between 1971 and 1978 175 percent of their net income.

Again, this is a private group making an independent study. These are the figures they gave to the Senate Finance Committee. I assume they have some credibility. They are not furnished by the oil industry, or anybody on their behalf.

In 1975 alone, the industry's capital expenditures were more than twice total industry net income.

Because corporations do not retain the entirety of their net income, but are obliged to pay out an appropriate portion to their shareholders, Salomon Bros. also considered the level of industry capital expenditures relative to the contributions to retained earnings, that is, net income less dividends.

On this basis, it noted that common dividends for the period averaged 40 percent of net income, placing the oil industry at the median of 83 industry groups in terms of its payout ratio. Considering this relationship in terms of the growth of these two figures, the Salomon Bros.' study noted that while the capital expenditures level in 1978 of $25.7 billion was $15.5 billion greater than the 1971 level, contributions to retained earnings in 1978 of $8.1 billion exceeded the 1971 figure by only $4.9 billion. In other words, the increase in the oil industry capital expenditure budget between 1978 and 1971 was in excess of 300 percent of the increase in retained earnings contributions.

This clearly challenges the implicit assumption of the windfall profit tax about the private sector's use of its profits and its ability to mobilize massive financial resources for energy development.

In other words, the increase in the oil industry capital expenditures budget between 1971 and 1978 was in excess of 300 percent of the increase in retained earning contribution.

I hope that those who may be listening in their offices will consider seriously this information. It clearly challenges the implicit assumption in the windfall profit tax about the private sector's use of its profits and its ability to mobilize massive financial resources for energy development.

So we are right back to where we started.

Chase Manhattan Bank, in testimony, outlined the profit picture of U.S. oil companies by stating:

> Until 1974, the return on equity in the oil industry was generally below that for all manufacturing. Then as a result of the rapid 1973–1974 run-up in OPEC oil prices, the rate of return in the U.S oil industry accelerated in comparison to the rate obtained in all manufacturing. In the 1975–1976 period, the return was higher in the oil industry. However, by 1977, the differential had disappeared and by 1978 reversed. This comparison highlights the important fact that, on average, oil industry profits are comparable to those of other industries. Furthermore, there is no indication that monopoly profits have been made by the oil industry. However, by 1977, the differential measures of profit are employed.

The Chase Manhattan representatives went on to say:

> Unfortunately, there seems to be a persistent belief on the part of the Administration, and the public for that matter, that the petroleum industry is extraordinarily profitable and that price controls are needed to keep oil industry profits within reasonable bounds. This belief is not supported by the facts. Regardless of whether one uses traditional accounting measurements of return, such as return on equity, assets or sales, or measures of return based on discounted cash flow concepts or stock market performance, there is no evidence that the oil industry taken as a whole has had above average profitability, let alone excessive profits.

Perhaps this testimony is suspect, because it comes from somebody who understands oil industry investment—the Chase Manhattan Bank. They have the expertise, the staff, and the data. This was their testimony before the Senate Finance Committee.

In taking an objective look at this tax we should look at the facts, we should look at production, and we should look at the amount of the tax.

Then, we have to consider whether to keep the proposal of Senator PACKWOOD to expand the business energy tax credits, which will be stricken when we table the Bumpers amendment. We must also decide whether to keep the provisions concerning low income assistance, which was a bipartisan effort. These provisions are not in the Bumpers amendment, so I assume they can be added later.

The bill we have now, is the result of a lot of effort by members of the Senate Finance Committee, who may not be perfect. Nevertheless, the final vote was 15 to 1 in favor of the Finance Committee approach. We did not go all the way, either way. We did not say there should not be any tax. With no windfall tax, you might have 4 million more barrels of production by late 1990. If you take the House bill, production would be cut in two, which is about 2 million barrels, and the Finance Committee decided to make it 1 million barrels less. The committee hopes to increase conservation by tax credits.

If the chairman moves to table the so-called Bumpers amendment, I hope it will be supported. I do not question the motives of the distinguished Senator from Arkansas—after all Arkansas produces some oil. There are 6,736 stripper wells in Arkansas which produce about 6 million barrels a day or about what we import in a day. If we double that production in Arkansas, we will do away with 1 day of imports.

One way of encouraging incentive for production in any State, including my State and Ohio and Arkansas, I ask unanimous consent to have printed in the RECORD all the stripper wells as of January 1978.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

NATIONAL STRIPPER WELL SURVEY AS OF JAN. 1, 1978

State	Number of stripper wells	Production from stripper wells (barrels)	Abandonments	Average daily production per well	Acres
Alabama	78	139,210	2	4.89	2,680
Arizona	7	6,709	0	2.62	800
Arkansas	6,736	6,171,489	17	2.51	128,451
California	28,328	51,409,560	782	4.97	221,890
Colorado	990	2,017,045	57	5.58	33,110
Illinois	23,499	23,614,200	420	2.75	590,216
Indiana	5,056	5,255,264	97	2.85	305,560
Kansas	42,273	44,189,776	605	2.86	1,410,540
Kentucky	14,046	5,420,819	220	1.06	280,840
Louisiana	13,189	7,739,510	226	1.61	274,260
Michigan	3,276	6,233,004	34	5.21	87,445
Mississippi	654	1,349,305	29	5.65	26,160
Missouri	161	59,535	12	1.01	1,360
Montana	1,945	3,255,272	7	4.58	60,390
Nebraska	919	2,012,309	14	6.00	49,085
New Mexico	10,956	11,547,173	417	2.83	480,140
New York	4,513	813,000	455	.45	25,000
North Dakota	687	1,145,859	3	4.57	72,762
Ohio	16,122	7,251,183	202	1.23	241,830
Oklahoma	56,239	74,400,427	793	3.62	1,441,880
Pennsylvania	28,400	2,659,414	1,034	.26	662,358
South Dakota	16	14,520	1	2.49	2,720
Tennessee	213	194,087	5	2.50	3,120
Texas	92,887	127,886,421	3,057	3.77	2,642,234
Utah	74	136,368	56	5.05	13,630
Virginia	4	1,742	1	1.19	220
West Virginia	13,875	2,384,000	13	.47	229,000
Wyoming	3,387	5,224,744	441	4.23	135,480
Total	368,930	392,531,945	9,000	2.91	9,423,161

Mr. DOLE. However, 20 million barrels a year of all types of oil are produced in the State of Arkansas. They get about 6 million from strippers. Arkansas makes a great contribution to the energy situation of this country.

We hope we can help in the effort by finding the balance between what the Senator from Arkansas would like to have and others would like. It is my opinion that we have reached that balance through a lot of effort and compromise by increasing the tax to 75 percent on certain categories, leaving it at 60 percent on others, and by exempting certain categories. The committee will still raise as much revenue as the administration wanted. In fact, three times as much revenue as proposed initially.

So the reason why we should not replace the Finance Committee bill—and this is a point I have tried to make—is that to do so would retard production in this country.

We can talk about taxes and production and about the fact that the Energy Security Corporation is going to take $88 billion and tie the Government into the energy business.

Mr. President, the first and most important reason why the House bill should not replace the Finance Committee substitute is because such an action by the Senate will seriously and permanently retard the production of oil and gas in this country. This is exactly the opposite of what we should be trying to do.

The Finance Committee, as has been said here repeatedly, tried to strike a balance between raising revenues for low-income Americans and helping develop a synthetic fuel industry on the one hand and increasing production on the other hand. In fact, I feel the committee tipped the balance slightly against production. We should be trying to right this balance—not tip it further toward revenues and away from production.

The CBO production figures demonstrate the degree to which the proponents of the House bill would retard production in this country. According to the CBO, using continued controls as a base case, no "windfall profit tax" would increase production by 1,165,000 barrels per day by 1990. The Senate bill would result in 875,000 barrels per day of new production. By contrast, the House bill would result in only 425,000 barrels per day of new production. This is a 450,000 barrel per day reduction from the Senate bill. This is a reduction we cannot afford.

The figures from industry are even more alarming. The industry believes that by 1990 it can produce 4,000,000 barrels per day of new oil—over continued controls—with no windfall profit tax. The Senate bill would permit 3,000,000 barrels per day of this oil to be produced. The House bill results in only 2,000,000 barrels per day. In short, the oil industry believes that 1,000,000 barrels per day of production will be lost by 1990 if we adopt the House bill. Such a loss can only result in stunted economic growth and eventual long gasoline lines.

The point is that I hope those on this side of the aisle will look at the amendment very closely. After we move to table the amendment, we can go on to some other amendments and take them one at a time. I think the Senator from Wyoming has a complete substitute, which we can talk about tomorrow. Ninety-six amendments are pending, and the best way to make progress would be by tabling the so-called Bumpers amendment.

Mr. President, I am prepared to yield the floor.

ORDER FOR STAR PRINT

Mr. NELSON. Mr. President, I send to the desk a corrected amendment to No. 684, and I ask unanimous consent that a star print of that amendment be made.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I have talked to the distinguished floor manager about the time on a motion to table. Some Senators are absent today who I am sure would support him, and some are absent who would support me. Some Senators will be here in a couple of hours and would like to vote on this matter, on both sides. Perhaps, in the interests of the Senate and the country, it would be best if we went ahead and voted.

I have a few comments before we vote, not necessarily to sound a warning or to indicate that the walls of the temple are going to fall if the motion to table is agreed to, but I think it would be very helpful for all of us to recount a few things about this whole concept of windfall profits.

Mr. President, you heard it said that this is the biggest tax ever levied on an industry. You heard it said that this is the biggest tax ever levied, period. There is one thing about that that I think is

worth correcting or at least putting in perspective. This is not a tax on the oil companies. The decontrol of oil prices was, in effect, a tax on the American people of $1 trillion. If you want to say that is the biggest tax ever levied on the American people, you are absolutely correct.

All we are debating here is whether or not we are going to recoup any of this on behalf of and for the benefit of those people who are paying it in the first place.

We are talking about an assumption of $30 a barrel of oil together with inflation plus 2 percent on an annual basis giving the oil companies $1 trillion in added revenues over the next 10 years and the American people paying that. However, so far in 1979 OPEC has increased prices 60 percent. By using the Finance Committee projection that oil prices are going to go up at the rate of inflation plus 2 percent and applying that to the year 1979, you are only going to be 45 percent short. Inflation this year is 13 percent, add the 2 percent, that gives you 15 percent, which the Finance Committee uses to make its projections, and yet OPEC has already raised the price 60 percent this year.

Mr. President, if that continues, the oil companies are not going to derive $1 trillion in additional revenues over the next 10 years. It is going to be on the order of $2, $3, or $4 trillion, and we are standing here debating whether we are going to take back $135 billion or $270 billion.

What we are really talking about are peanuts compared to what the American people are being asked to cough up. In exchange for this they are asked to believe that the marketplace will decide, because it supposedly served us so well. However, the marketplace cannot decide because OPEC decides for the marketplace. It is just that simple. The marketplace can never determine anything unless the supply equals the demands or exceeds it. It does not now or will it ever again in the future, so far as petroleum is concerned. The marketplace cannot decide. OPEC will decide.

The oil companies understand that. Right now Saudi Arabia is producing 9.5 million barrels of oil per day, a million more than they want to, in order to accommodate the United States.

However, the four American sisters, Aramco, are getting 90 percent of it or 8.5 million barrels, and they are buying it at $18 and $19 a barrel. The OPEC price is $23 and very few members of OPEC are selling it so low. Mr. President, the spot price of oil in this world is running at $40 to $50 a barrel. The Saudis are sitting there getting increasingly agitated because they are trying to do the American consumer a favor by holding down the price. What are the Four Sisters doing with that 8½ million barrels? They certainly are not giving that $5 a barrel advantage to the American consumer, for whom it was intended. Of the 8½ million barrels, they bring about 1 million barrels of it in the United States. The rest goes to Japan and Western Europe where there are no controls, so they can charge as much as they want to for it. They bring the highest priced oil into this country, because they are paid on the basis of what they can pass through their costs.

Someone can say, "Well, Senator, that is a great argument for doing away with controls. If they had had decontrol they would have brought the oil to this country and not sent it to Japan and Western Europe." That is true. They would not. I guarantee you would have paid just as much for it if there had been no controls.

I say that simply to tell you that these are the same people who tell us they will find more oil for us if we will just give them another trillion dollars. These are the people who fly under the American flag. These are the people who benefit from instability in the Middle East. These are the people who benefit every time OPEC sits around the table and decides to raise the price.

It is argued that most of the profits in these outlandish profit figures, which you have seen for the past 3 months, were made overseas. They probably were. I just gave you a good reason why they were.

Then they are expected to believe that if you will just give them another trillion dollars they will explore and find more oil for us.

Texaco says they are working to keep America's trust. Texaco proved it last year by putting less than 1 percent of its revenues back into exploration. That is how hard they are working to keep America's trust.

Exxon, the biggest of all, the biggest dinosaur in the world, out of $60 billion in revenues in 1978 put the gigantic sum of $775 million back into production and boasted that was almost as much as they made in one quarter's profits. One percent of the revenues of about the top 20 oil companies went back to exploration.

That does not sound like someone who really believes that oil is out there. That does not sound like the companies who tell us, "The geological opportunities are unlimited in the country and we just need the money to drill."

The truth of the matter is that since the year 1970 production has been on the decline in this country and the only blip is when we started shipping Alaskan oil in this country, and it was found in 1967 through 1971.

What are the economics of it? The Senate Finance Committee bill produces $135 billion; the House version produces about $270 billion, or twice as much. And for the difference between the two bills, the oil companies say, "If you will just go with the Senate version, if you will just adopt that little old $135 billion bill, for the other $135 billion you leave us we will find you 500,000 barrels more oil than we would otherwise find."

Of course, that tells us something, because that is a form of extortion.

What are the economics of it? For $135 billion they will give us 500,000 barrels of crude, and for $20 billion we can produce our own alcohol at 500,000 barrels per day. Even if you assume that alcohol has only half the Btu equivalent of gasoline, raise it to $40 billion, and it still only costs a third of what the Senate Finance Committee bill would cost.

Look at the production figures. Senators saw the charts I had in the back of the Chamber last week. The decline is inexorable. In 1971 they were finding 45 barrels of oil for every foot they drilled, and they now find 16, by drilling almost twice as many wells.

Now you can argue these things all day long, and some of the arguments I think that really trouble me the most, and are the most dismaying to me, are those which say if you just give them enough money they will find it just as though God had nothing to do with how much there is out there.

In the last 70 years, 2 million wells have been sunk in this country in the lower 48. And the handwriting is on the wall and it has been for a very long time. Finally we are told if you just raise the price high enough people will quit driving. There is just enough truth in that to be appealing, particularly to those in high income categories who know they are not going to quit driving no matter how high the price goes.

Unhappily, I represent a State that is indeed poor. We admit it. We have struggled for years to overcome it. We do everything we can think of. And I might just digress to say I am sort of like Tom McCall of Oregon. We have a beautiful State. It is gorgeous. And my goal is not to see how many people we can pack into it. I am not interested in population growth for my State because I know what goes with it. But our people do not have mass transit. They have to get to work however they can, and, believe me, that can sometimes be a pretty sad way. Six of them get in the back of a pickup truck on cold mornings and ride 23 miles to the furniture factories to work for $4 and $5 an hour. Try to tell them to curb their energy consumption or you are going to raise the price to $2 and $2.50 a gallon. Those are the same people who have lost 4½ to 5 percent of their disposable income this year because of energy prices already. And inflation is 13 percent, 4 to 5 percent of which is caused by high energy prices, and their incomes are up 7 percent, 8 percent, or maybe 10 percent. Even if it is up by 10 percent, by the time that increase is taxed, they have been ripped off 5 percent. They are worse off by 5 percent than they were a year ago because of high energy prices.

What have high energy prices done in Western Europe and Japan? The chart which I had in the back of the Chamber last week showed every time the price of gasoline goes up in those countries, consumption levels off for 3 or 4 months and then starts back up at the same old rate.

So those are the arguments, and you judge them for yourselves.

There is one nice thing about independents. The Senator from Wisconsin has offered an amendment to my amendment, which he will not now get an opportunity to offer, unless we refuse to table this amendment. That amendment would exempt 500 barrels a day for independents. I am for that for a very simple reason: They find 75 percent of all the oil that is found in this country. They spend 100 percent of their revenues for exploration. So I am willing to give them a break.

Mr. President, in 1973, when the OPEC cartel quadrupled prices, the value of oil and gas reserves in this country went up $800 billion that very moment, which

amounts to $10,000 for every family in America thanks to OPEC.

By decontrolling oil prices we are voting the American oil industry a full-fledged membership in the OPEC cartel. Every time they sit around the table and set the price for the next 6 months until they decide to raise it again, the American oil companies will benefit from it, and the American people will suffer.

There has been some talk here about what Yamani told Bill Miller over the weekend. Well, I do not blame the Saudis. They know they are subsidizing the world to the tune of $90 million a day. They are selling that 9.5 million barrels of oil every day for $90 million less than they can be getting for it.

They say to us that they want to cut their production in order to leave as much of their oil in the ground as they can. They add that if we do not pass a good stiff windfall profits tax, they will. That is bad news for the American people, and that is a threat to us.

However, that is music to the oil industry's ears, because every time OPEC raises its price, that industry gets the benefit of it.

You know if all the predictions of cutoffs in the Middle East and all the dire predictions about scarcity come true, it will be terrible for the American economy, but it will be great for the American oil companies since scarcity means higher and higher prices.

Consider the Alaskan pipeline. The Alaskan pipeline was built so that you could put two pumping stations on it and pump 1.6 million barrels a day through it. But the two pumping stations were not built. I do not know why they were not built, but my guess is that as long as only 1.2 million barrels goes through it instead of 1.6 million barrels there will be a 400,000-barrel shortfall, as we had last spring. You saw the lines in Washington that resulted.

Situations such as that in Iran will occur again to interrupt our supplies. Neither Iran nor the shortages last spring would have meant anything if we had those two pumping stations on the Alaskan pipeline, but we did not, and we do not.

No one seems to want rationing, but people say, "Why does Congress not do something?" What they really are saying is "Why do you not make us do something? Why do you not make America conserve?"

All I can say is "We haven't got the votes."

Some say the solution is a refund to the poor—what a magnanimous, charitable offer on behalf of the U.S. Congress to send back $3 billion or $4 billion to the people who make a median family income and below. Out of $1 trillion, we are going to give them back $3 billion or $4 billion to help them pay their heating bills.

Consider home heating oil prices. You heard the arguments in this Chamber in 1976 that the decontrol of home heating oil would guarantee an ample supply. Unfortunately, nobody made the argument as to what the price would be, and the rest is history. There were only 32 of us voted against it. Happily I am not running for President, but if I were, I would sure go to New Hampshire and tell those people I did not vote for it.

Home heating oil now costs a dollar per gallon, and it will certainly go higher. We have been told that the oil companies are making most of their profits overseas. However, in May of 1978 their refinery margins were 6 cents; in January of 1979 they were 7.6 cents, only a 1.6-cent increase over a period of 8 months; and from January 1979 until May of 1979 the price jumped to 11 cents. Now it is between 12 and 14 cents a gallon. That is the refinery margin on home heating oil.

These are the people who are working to keep your trust. I do not know whether we are in a recession, I do not know whether we are going into one or how deep it is going to be or how long it is going to last, but there is already a lot of talk on this floor about tax reform, tax cuts. We are going to have to give business some more incentives, we are going to have to give people a break. It is nonsense to talk about tax cuts while we stand here imposing a $1 trillion tax bill on those people for whom we profess such great concern.

Finally, I want to say, Mr. President, if you really want to give a tax cut, here is an opportunity, because my amendment provides that Congress will vote whether to use the increased amount of money which my amendment would provide to go into the social security trust fund.

In 1980, the rate of social security is not going up, but the payroll base will. It is not going to be terribly devastating, even though the working people of this country are already being wiped out. In 1981 the devastation starts. You can look at the rates that you are asking American working people to pay for social security beginning January 1, 1981, from there to 1985, and look at the payroll base. Now there is a tax. If your concern is for the employer, and particularly the small business people who are going to be asked to cough up that 7.65 percent, or 1.5 percent more in payroll taxes between now and 1986, do not vote to table this amendment. Give Congress an opportunity to give them and their workers just some small break.

Finally, Mr. President, if we table this amendment, there will not be an opportunity to amend it. I think the Senator from Wisconsin has a good amendment in his amendment to exempt the independent producers. There are some other things that I think might be fair and equitable; but I would rather take this bill and work downward than take the Senate Finance Committee's bill and try to work upward.

This is an opportunity that will not again present itself soon. Senators will have the opportunity to go to the American people over the Christmas holidays, and those who are running for election next year can go to their voters next year, as they watch those prices continue to go up at the pump, and as they watch their home heating bills go higher and higher. Senators are going to have a chance to go home and say, "Out of that trillion dollars, we saved $3 billion to $4 billion to help you pay your home heating bills." I have a feeling they will not be too well received.

Mr. President, I am not going to belabor this issue. I just simply want to say that this is an opportunity for the Senate to do something right. I know that some of my appeals here this afternoon have been highly populistic in tone, and I do not apologize for that. I feel very strongly about it.

I am not trying to denigrate the American oil industry. I am not trying to destroy them. I just want them to act right, and I want the American people to be treated fairly.

Mr. President, I yield the floor.

Mr. LONG. Mr. President, in a few moments I am going to move to lay the amendment of the Senator from Arkansas on the table. I have tried to notify Senators that I intend to do so, and that we will vote in a short while.

The Senator from Arkansas indicated, in the course of his speech, that he really felt the small independents should be exempted from his amendment, which indicates that the Senator does believe that there is a lot of merit to the idea of letting someone make a profit if he finds new oil and can produce more for it. I am glad to see that at least the Senator has made some headway in his thinking.

But, Mr. President, the proposal before us would mean an 83-percent tax on all new revenue flowing to the industry as a result of decontrol. The committee is proposing what amounts to a 70-percent tax. Obviously, no one can invest in finding energy the money that the Government takes. He can only invest the part that he is able to keep out of the cash flow, or the part that he is able to borrow, and of course his cash flow limits his ability to borrow.

Mr. MAGNUSON. Mr. President, I rise in support of the amendment offered by my good friend, the Senator from Arkansas (Mr. BUMPERS).

I believe this amendment offers the best opportunity to strengthen the windfall profits tax.

This is a very simple, straightforward amendment. It would substitute the tax rate adopted by the House of Representatives for the figures adopted by the Finance Committee in title I of this bill. This would double the revenue from the windfall profits tax without reducing the incentives the oil companies need for further exploration.

Now, the oil industry claims that the revenue figures in the House bill will destroy their incentives to go out and explore for additional oil.

I do not buy this argument.

The oil companies are already making huge profits.

Let me just mention the profits reported by U.S. oil companies during the third quarter of 1979.

Mobil up 130 percent over the same period in 1978.

Exxon up 118 percent—with third quarter profits of over $1 billion.

Gulf up 97 percent.

Conoco up 134 percent.

Standard Oil of Indiana up 49 percent.

Arco up 45 percent.

Standard Oil of Ohio up 191 percent.

Sun Oil up 65 percent.

Occidental Oil up almost 1,000 percent.

I think the oil companies have plenty of "incentive" right now.

The oil companies maintain that much of this profit came from "overseas operations"; but the fact remains that these huge profits represent hundreds of millions of dollars out of the pockets of American consumers.

Higher oil prices are fueling this Nation's inflation and causing increased unemployment.

That is why, Mr. President, the Congress must be careful that we do not give the oil companies unnecessary incentives—at the expense of the American people.

Let me turn for a minute to a specific case: A windfall profit tax on new oil.

The oil companies maintain that this tax as contained in the House bill and this amendment, will substantially reduce exploration for oil.

Again, I do not agree with their analysis.

The oil company advertisements tell us that they are working day and night to find new oil—new oil that is priced right now at about $14 per barrel.

The experts tell us that the administration's program to decontrol oil will raise the price to about $30 per barrel over the next 2 years—more than double the current price. The House windfall profit tax would take about $6.50 per barrel on new oil—that still leaves a lot of "incentive."

The Congressional Budget Office estimates that the House windfall tax on new oil would result in 65,000 barrels per day less than the Finance Committee bill. This is a drop in the bucket compared to this Nation's daily consumption of about 18 million barrels per day. The 65,000 barrel per day difference represents less than one-half of 1 percent of U.S. oil consumption.

The House windfall profit tax on new oil would generate about $71 billion over the next decade. Money that could go to develop alternative energy resources, improve transportation efficiency, help low-income families that are hurt by high fuel prices, and other purposes.

By my calculations, the "incentive" of not putting an excise tax on new oil is worth about $84 per barrel to the oil companies.

That is an unnecesssary "incentive."

Without any windfall profit tax, the decontrol of crude oil would increase oil company revenues by over one trillion dollars between 1980 and 1990. After paying regular U.S. taxes, the oil companies would have an addition $443 billion left as a result of decontrol.

The Finance Committee windfall tax bill would take $138 billion—about 29 percent.

The House-passed bill would take $277 billion in windfall profits from the oil companies over the next decade. The House bill would leave the oil companies with $166 billion to stimulate new production.

That is $166 billion over and above the profits they were making before the decontrol of oil prices.

Mr. President, if the oil companies use this money wisely, if they do not waste it on too many corporate jets and too many fat corporate salaries—then Mr. President, I believe that $166 billion, plus the profits the oil companies are currently making should provide plenty of incentive to find new oil and reduce this Nation's dependence on foreign oil supplies.

Mr. President, I ask unanimous consent to have printed in the RECORD a very fine editorial that appeared last Friday in the Washington Post at the end of my remarks. The editorial supports the House windfall tax revenues in place of the Finance Committee figures.

I want to read the final paragraph:

Without a stiff tax on oil, the rush of revenues from decontrol and a soaring world price promise severe damage to the American economy. If the companies put all the money into drilling, they will rapidly push exploration far beyond the point of diminishing returns. If they use the money to diversify into other businesses, the implications for competition and diversity in the American business world are unwholesome. This tax is a device to maintain a crucial balance that is in danger of being lost.

Mr. President, the American people want increased domestic energy supplies—but they do not want to give the oil companies unnecessary additional profits and they do not want to give the oil companies more control over our economy.

The House windfall tax, contained in this amendment, strikes a sensible balance. It will promote more domestic production by offering reasonable incentives. And this amendment increases windfall profits revenues by $138 billion over the next 10 years.

Before I close, I want to say that I understand that the distinguished Senator from Arkansas wants to reserve the additional revenue that his amendment would generate for reductions in social security taxes.

The Senator knows about my concern about establishing uncontrollable trust funds—I will have more to say about this subject later.

The Senator from Arkansas and I have discussed this matter and the reserve created by this amendment would be subject to the Congress budget process and to the appropriate authorizing and appropriations committees.

Therefore, I am pleased to support this amendment and I urge its adoption.

There being no objection, the editorial was order to be printed in the RECORD, as follows:

THE OIL WINDFALL TAX

To make up your mind about the windfall oil profits tax, now under vigorous debate in the Senate, it helps to begin with a little arithmetic. President Carter has committed the country—properly and necessarily—to decontrolling oil prices over the next two years. If you assume, as most people do, that the world price will be over $30 a barrel by then, the gross revenues of the U.S. domestic oil producers will double over those two years. Their revenues will increase by some $60 billion.

The windfall profits tax has nothing to do, in fact, with profits. It is an excise tax—that is, a tax on each barrel of oil produced. The questions now before the Senate are how high to set that tax, and whether to vary it on the different categories of oil. The bill being debated in the Senate, drafted by its Finance Committee, would raise about half as much money as the version passed by the House last June. Which is right?

The evidence weighs heavily in favor of the House bill. The oil industry objects that the House bill would destroy incentives for further exploration. That's nonsense. Under the House bill, a barrel of newly discovered oil sold at $30 would pay a windfall tax of $6.50. That's hardly confiscatory—particularly when you remember that a similar barrel of newly discovered oil today is sold, under the controls, for less than $14, and exploration continues at a high rate.

Under the Senate bill, newly discovered oil would pay no tax at all. It would be exempt, to stimulate further discovery. But the Congressional Budget Office, like most other analysts, warns that domestic production is very unlikely to rise, regardless of prices offered. The only real question is how fast production falls. The higher the price, the slower that decline—but large differences in price incentives seem to offer only modest differences in the amounts of oil that will be found and brought to the market.

There are several basic principles that this new tax ought to reflect. It ought to follow, in general, the House bill in cutting down excessive incentives. But it could well follow the Senate bill in tilting decisively in favor of new discoveries, rather than heavy production from old fields. Third, the idea of segregated trust funds is a fundamentally bad one. Both bills would put this tax's revenues in trust funds; the normal appropriations process works a great deal better.

Without a stiff excise tax on oil, the rush of revenues from decontrol and a soaring world price promise severe damage to the American economy. If the companies put all of the money into drilling, they will rapidly push exploration far beyond the point of diminishing returns. If they use the money to diversify into other businesses, the implications for competition and diversity in the American business world are unwholesome. This tax is a device to maintain a crucial balance that is in danger of being lost.

Mr. LONG. It seems to me, Mr. President, that the issue has been pretty well discussed, and I therefore move that the Bumpers amendment be laid on the table.

THE PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Arkansas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina, (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), the Sena-

tor from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN), the Senator from Michigan (Mr. LEVIN), and the Senator from Rhode Island (Mr. PELL) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Iowa (Mr. JEPSEN), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 50, nays 32, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—50

Armstrong	Goldwater	Pressler
Baucus	Hart	Pryor
Bellmon	Hatch	Randolph
Bentsen	Hatfield	Schmitt
Boren	Hayakawa	Schweiker
Boschwitz	Heflin	Simpson
Burdick	Heinz	Stafford
Byrd, Robert C.	Helms	Stennis
Cannon	Humphrey	Stevens
Chafee	Johnston	Stone
Cochran	Laxalt	Thurmond
Danforth	Long	Tower
Dole	Lugar	Wallop
Domenici	Matsunaga	Warner
Durenberger	McClure	Young
Garn	Melcher	Zorinsky
Glenn	Percy	

NAYS—32

Bayh	Ford	Moynihan
Biden	Huddleston	Nelson
Bradley	Jackson	Packwood
Bumpers	Javits	Proxmire
Chiles	Kennedy	Ribicoff
Church	Leahy	Riegle
Cohen	Magnuson	Sarbanes
Culver	Mathias	Stewart
DeConcini	McGovern	Tsongas
Eagleton	Metzenbaum	Weicker
Exon	Morgan	

NOT VOTING—18

Baker	Inouye	Roth
Byrd, Harry F., Jr.	Jepsen	Sasser
	Kassebaum	Stevenson
Cranston	Levin	Talmadge
Durkin	Muskie	Williams
Gravel	Nunn	
Hollings	Pell	

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment of the Senator from Arkansas (Mr. BUMPERS) is tabled, taking with it the pending second-degree amendment offered by the Senator from Louisiana (Mr. LONG).

Mr. LONG. I move to reconsider the vote.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Message from the House.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that Mr. Sheets of my staff be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the amendment offered by the distinguished Senator from Arkansas presented a difficult choice. The primary task before us is to strike the appropriate balance between increasing domestic oil production and redistributing windfall revenues accruing to the oil companies for necessary and urgent public purposes. To some, it would appear that the amendment to substitute in toto the House-passed version of the windfall profit tax for the Finance Committee bill is the best way to vote for increased tax revenues. The Finance Committee bill raises $138 billion over the 11-year period from 1979 to 1990, while the House bill raises revenues of $276 to $278 billion over the same period.

There can be no question that we must enact a meaningful windfall profit tax. The American public, viewing the extraordinary profits accruing to the oil companies as a result of decontrol and soaring world oil prices, expects nothing less. However, I do not believe that adoption of the House bill is the best or most effective way to achieve that result and for that reason I voted to table the amendment. We are not seeking to punish the oil industry. We are seeking to devise the best possible tax which will provide a blueprint for our Nation's energy future.

The prodigious efforts of the Finance Committee have produced legislation which should serve as the starting point for consideration of specific measures to increase tax revenues. The balance between private sector profits and public sector revenues must be carefully weighed. There is no single formula, therefore, which achieves this balance. Rather, the expertise of the Finance Committee bill should be used as the basis for refining this legislation to arrive at a fair, equitable, and meaningful tax.

I can appreciate the sincere dedication that was manifested by those who voted against the tabling motion and who supported the amendment offered by the very distinguished Senator from Arkansas. I can understand their strong feeling that the bill that is before the Senate should perhaps be tightened up in one way or another so as to raise additional revenues. However, I felt that the Finance Committee, having worked long and diligently and hard to report a bill, that the Senate should at least work its will on the basis of that measure, amending it where it feels that it should be amended, rather than to substitute for that work the bill that had been reported from the House. It is for that reason that I voted to table it.

(Mr. ZORINSKY assumed the chair.)

Mr. MOYNIHAN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MOYNIHAN. May I say how gratified I was to hear the distinguished majority leader describe the bill on the floor as a starting point? I ask the majority leader—rhetorically, obviously: He is aware, I am sure, that a number of members of the Committee on Finance have amendments at the desk which, we feel, would improve these measures. These are proposals supported by the administration. They are sound, in our view. They will come very close to the amendments that the majority leader has spoken of. He indicates that he is aware of this and, as he knows, we shall be presenting these in the course of the day.

Mr. ROBERT C. BYRD. Yes; I am well aware of these amendments and I may very well vote for some amendments and I may vote against some others. But I feel the Senate should work its will on the bill that has been reported by the Senate's committee. I do not feel that we ought to reject the product of many weeks or even months of work on the part of our own Committee on Finance and accept, in toto, a House bill on the same subject. I do not believe that all wisdom is reposited on the other side of the Capitol. I think there is a good bit of wisdom over there, but I have long favored having our own committees work, examining the product of craftsmanship on the part of those committees, and having the Senate work its will on the basis of the Senate product, improving that if it feels it can be improved, and then going to conference to work out the areas of difference that need to be resolved in conference.

As I say, I shall study the amendments that are called up from time to time to this bill. I shall undoubtedly support some of them. I shall not support all of them, I venture to say, because I understand there are 80-some amendments at the desk now.

I certainly want to see the Senate Committee on Finance have its opportunity to defend its product. I want to see the bill that has been reported by the Senate Finance Committee carefully examined on the floor of the Senate. We have the process, that has been duly refined over a period of almost two centuries now, whereby we can amend the Senate bill. I am glad that the Senate voted for the tabling measure, because I think the Senate bill is entitled to that kind of consideration. I do not say this to cast any kind of aspersions or reflections on the Senators who voted against the tabling motion. This is my own opinion that I am expressing, but I am expressing it from the standpoint of a Member of the institution who believes that we ought to give our just regard to the product that has been brought to the floor after a long period of time by one of our own committees and have the Senate work its will on that bill.

Mr. MOYNIHAN. I am very happy to hear the remarks of the majority leader.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. It is a fact, that this would have represented, if the tabling motion had gone down, the substitution of the House bill for the Senate one; but it is a fact, is it not, that the House vehicle could have been amended just as readily?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. So this was not a vote on substituting the House bill for the Senate bill. I would have voted the other way if it were the House bill as a substitute. But, in all fairness to those who voted no, I believe, speaking only for myself, that it was a question of the principle of adopting another framework in

order to operate on that by way of amendment. Any part of the Senate bill could have been amended. Indeed, Senator LONG had already introduced one.

So as I say, I feel I would have voted the other way if I thought this would have ended it. But the Senate had one view; I and others had another view.

Mr. ROBERT C. BYRD. The Senator is correct, that the Senate would have had an opportunity to amend the House bill.

Mr. JAVITS. And could have rejected it.

Mr. ROBERT C. BYRD. And could have rejected it, that is true. But as I say, I feel I owe it to the Senate committee, whatever committee it may be—Labor and Human Resources or whatever committee it is—to support the product of that committee at least up until the final vote.

I may vote against the bill. I have done that before, also. But I am not for substituting a House bill, ordinarily, for the product of a Senate committee. That is what I am saying.

Mr. JAVITS. The Senator felt so strongly about it that he decided to cut it off today.

Mr. PERCY. Will the Senator yield for a comment?

Mr. ROBERT C. BYRD. Yes.

Mr. PERCY. I very much appreciated the statement of the majority leader because it so well reflected the thought I can take into account fully what the distinguished senior Senator from New York has said, but in looking at the Senate bill, I felt it is a basis, and I shall vote, probably, for some amendments. But I think there are some basic principles that ought to be preserved.

For instance, if the House bill were the vehicle on which we build, we begin with the fact that there will be no exemption for newly discovered oil or for tertiary recovery until 1990. I do not know whether the world can wait that long. I do not know whether the United States can wait that long.

Do we not know today approximately how much it is going to cost for tertiary recovery?

I have been in the oil fields in Southern Illinois and in other areas, in laboratories, and we know it is going to cost $30 to $35 a barrel. The oil is there. We are capping the wells before we go after it.

If we get in, we might as well get it while we are working on those wells. But we have to recognize it will cost more money and we have to have a good deal more incentive, just as for newly discovered oil.

I think the Finance Committee is absolutely right in what it has done. The foundation is laid. Certainly, these exemptions are exactly what we want—the incentive to go out and discover more domestic oil, bring it onstream, not by 1990, but in the 1980's when we really need it. We need it today.

I commend the committee for its foresight and the research it has done in these areas which I fully support.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Illinois for his comments.

I have only a few more remarks and then I will yield the floor.

Mr. President, the windfall profit tax, as has been indicated by the distinguished chairman, is the largest single tax bill on any industry which has ever been considered by the Congress. The revenues which potentially can be raised are startling to contemplate. This is more than a measure to promote the production of energy, although that must remain one of our foremost considerations. This debate will require each of us to examine some of the fundamental assumptions which underlie our present tax and budget policies. There is little question that our deliberations here will affect this Nation's future for the next generation to come. We must exercise the greatest wisdom and restraint as we consider the issues before us.

One of the most critical components of our program to reduce foreign oil imports is the production of more domestic oil and natural gas. This was the primary motivation behind the President's decision to decontrol the price of domestic crude oil, in the hopes that higher prices will spur greater production and conservation. I believe that this decision was the correct one, and will ultimately lead to increased energy self-sufficiency. However, as a result of decontrol and rapidly escalating world oil prices the producers of oil will reap tremendous profits that are not necessarily attributable to increased costs of production. The President initially proposed that a windfall profit tax be imposed upon a portion of those revenues, returning those funds to the Treasury for uses which benefit all the American people, such as mass transit, assistance to the poor and elderly and alternate energy development.

Acting under their appropriate constitutional mandate, the House passed its windfall profit tax bill in late June. Attempting to strike a balance between domestic oil production in the private sector and tax receipts that could be used in the public sector, the House bill raises significant revenues while still leaving substantial funds in the hands of the oil producers to be used for future exploration and development. The House bill does not approach the difficult problem of distributing the revenues which are to be raised.

Over the last several weeks, the Finance Committee has considered in great detail each of the policy and legal issues which comprise this legislation. I take this opportunity to congratulate the distinguished chairman of the Finance Committee, my good friend Senator LONG, for his leadership in this endeavor. His wisdom and expertise guided the deliberations of the committee and his good sense of humor made a difficult and arduous task a little easier. I must also commend the distinguished Senator from Kansas (Mr. DOLE) for his able assistance as well. Each member of the committee offered significant contributions to the deliberations and the committee's careful study of the issues involved, as incorporated in the lengthy committee report, will aid each of us in this debate.

Strong opinions have been registered regarding the necessity of this tax. Spirited disagreement has characterized committee consideration of the amount of revenue the tax should raise and the uses to which the revenues should be applied. Some believe that the proceeds from decontrol should be returned to the oil companies for reinvestment in new domestic energy production.

While any windfall profits tax must be fair and equitable, with the purpose of producing the maximum amount of energy, there is a limit to the amount of money that can be effectively put to use for oil exploration and development. Recent oil company profits demand that we take a hard look at how the extraordinary profits to be derived from oil price decontrol are to be distributed.

Many believe that higher prices will not result in significantly greater oil production or that the cost of such incremental production will far exceed the cost of alternate fuel development. We are witnessing an unprecedented transfer of wealth from the consumers of energy to the producers of oil, which carries with it profound implications for the balance of strategic and economic power in the world. This transfer of wealth also jeopardizes the financial security of many of our citizens and imposes an intolerable burden upon the poor and the elderly, who are least prepared to cope with skyrocketing energy costs. While we must resist the temptation to cure all our economic ills with this measure, there is little question that sufficient revenues may be raised by this tax to further important public purposes.

This matter is of the utmost importance to the future of our country. The decisions we will make on these questions will, to a large measure, affect our course at home and abroad for the next decade and beyond. The eyes of the American public are focused on the Senate and we are expected to take meaningful action. This is a time for careful thought and deliberation as we consider this critical legislation.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

Mr. HEINZ. Mr. President, first, let me say to the majority leader that I did not mean in any way, shape, or form to inadvertently interrupt his very learned discourse a moment ago. If I even caused him to hesitate at all, I apologize to him for having had the conversation I did with the distinguished chairman of the committee.

Mr. ROBERT C. BYRD. I think the Senator is very gracious to say this. We all forget at times and engage in our conversations on the floor, and I do the same, always without any intention or even thought I may be disturbing some other Senators.

Mr. HEINZ. I thank the distinguished majority leader for his understanding.

AMENDMENT NO. 653

(Purpose: To eliminate the exclusions applicable to coke and coke gas under the alternative energy property rules)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MATSUNAGA). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. ROBERT C. BYRD, Mr. FORD, Mr. GLENN, Mr. RANDOLPH, Mr. HUDDLESTON, Mr. BAYH, Mr. SCHWEIKER, Mr. EAGLETON, Mr. BENTSEN, Mr. WARNER, and Mr. STEWART, proposes an amendment numbered 653.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 115, between lines 22 and 23, insert the following new subsection:

(b) COKE AND COKE GAS.—

(1) IN GENERAL.—Subparagraph (A) of section 48(l)(3) (relating to alternative energy property) is amended by striking out "(other than coke or coke gas)" in clauses (iii) and (v).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply, under the rules applicable under section 48(m) of the Internal Revenue Code of 1954 (relating to application of certain transitional rules), after the date of enactment of this Act.

On page 115, line 23, strike out "(b)" and insert in lieu thereof "(c)".

Mr. HEINZ. Mr. President, I offer this amendment, which has been printed as No. 653, on behalf of the following cosponsors: The Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Indiana (Mr. BAYH), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Missouri (Mr. EAGLETON), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. WARNER), and the Senator from Alabama (Mr. STEWART).

This amendment would make coke-gas producing equipment eligible for the alternative energy property investment tax credit. In the last Congress an identical amendment was offered by my colleague from Pennsylvania (Mr. SCHWEIKER) and was passed by the Senate, but dropped in conference.

This amendment rectifies a glaring anomaly in present law. At the same time, it will help to remedy our balance-of-payments deficit, bolster our weakening steel industry, and decrease our need to rely upon foreign oil. It thereby responds directly to some of the most urgent problems facing our Nation's economy today.

When the Energy Tax Act of 1978 was enacted, coke-producing equipment was excluded from consideration as alternative energy property. It is ineligible for the alternative energy property investment tax credit. But there is no warrant whatsoever for this exclusion. Coke ovens convert coal into coke, which is used primarily by the steel industry to fuel its blast furnaces. In so doing, they produce a medium-Btu byproduct gas that is used by industry as a substitute for petroleum and natural gas. It is estimated that the equivalent of one barrel of oil is obtained in the form of this byproduct gas for each ton of coke produced. The fact of the matter is that coke ovens are presently the only full-scale production-tested coal gasifiers in commercial operation in the United States. They are, in short, exactly the kind of alternative energy property this tax credit was intended to further, making possible shifts from oil and natural gas to other fuels.

It is not just the principle of the thing that makes our amendment so important, and prompts us to renew our efforts. There has been a growing and well-documented decline in the U.S. coke production capacity. And unless immediate steps are taken to check this trend, grave consequences are threatened for our economy as a whole in the coming decade.

In 1978, for the first time in 40 years, the U.S. metallurgical coke industry produced less than 50 million tons of coke, an output 14 percent below our consumption requirements. And that output was 9.2 percent lower than the year before. Our Nation's coke production capacity has been declining for years; in all likelihood, the rate of decline will only worsen as we enter the 1980's. By 1985, we can expect to be capable of producing over 16 million tons less coke than 10 years earlier.

At the heart of the problem is the age and deteriorating condition of our coke production facilities. Much of the equipment has decayed to the point where it cannot be operated efficiently or in compliance with environmental regulations, necessitating rehabilitation or complete replacement. But the costs are staggering; in the last 10 years, the price of installing a 1-million-ton coke-oven battery has increased almost 150 percent, to $200 million. Consequently, coke ovens are now being retired faster than they can be replaced. Many have had to be retired prematurely in order to avoid violating environmental regulations.

Because of the inadequate domestic supply, our steel industry has had to turn increasingly to imported coke to meet its needs. There is great irony in this, since the United States has the largest and best coking-coal reserves in the industrialized world. Last year we imported 5.7 million tons of coke, amounting to 10 percent of our requirements, a jump of 1.8 million tons from the year before, and the sixth consecutive year that we have imported over 1 million tons.

Those 5.7 million tons of imported coke represent over a half-billion dollar contribution to our balance-of-payments deficit.

Because we did not produce that coke domestically, we lost the equivalent of 10 million barrels of oil in by-product coke gas. At current prices for imported oil, that would represent an additional $200 million contribution to the trade deficit.

So the coke we import puts a double burden on our trade balance.

But the human side of the problem is even sadder. Those 5.7 million tons of imported coke represent the jobs of 3,400 coke-plant workers and 6,000 coal miners.

Should this erosion of coke production capacity be permitted to continue, we could easily be importing 10 million tons of coke a year by the early 1980's. That would represent over a $1 billion annual contribution to our trade deficit. It would also mean the loss each year of the equivalent of 20 million barrels of oil, not to mention the jobs of upward of 15,000 steel and coal workers.

Of course, these figures all assume that we would be able to import the coke we need in the future; however, there is real question about that. Imported coke is readily available at the moment, but only because it is not needed elsewhere. West Germany is our principal foreign supplier, and the German steel industry has lately been operating far below capacity. But should the demand for steel increase, German coke producers would be obliged to accord priority to their domestic customers. The price of coke exported to the United States would rise steeply—that is, if there was any coke left over to be exported. Other nations could not be counted on to supply our needs, since coke production capacity has been declining worldwide. We could be faced with the sorry spectacle of an American steel industry forced to remain partly idle in periods of peak demand, while American needs were met by increased imports of steel at high noncompetitive prices.

We have no alternative but to respond to this situation the only way we can, and that is, to rebuild our coke production facilities. Steelmaking processes that use other fuels have their limits; electric blast furnaces, for example, must be fed with scrap iron, and there is hardly enough of that for our needs. But the costs of rebuilding—which would have to be borne by a steel industry already desperately short of capital—are, as I mentioned earlier, enormous. Adding the capacity for an additional 6 million tons of coke production would require an investment of $120 million per year for 10 years. And that figure must be combined with the yearly capital outlay needed to replace deteriorating coke ovens. If we were to adopt the same rate of replacement as our foreign competitors, the annual U.S. steel industry investment in coke oven facilities would have to come to $560 million per year.

The amendment I am offering provides an incentive toward renovating coke production facilities at an accelerated rate. It extends the 10 percent supplemental alternative energy property tax credit to investments in the replacement or rebuilding of coke ovens. And combined with the affirmative commitment provisions of the Windfall Profit Tax Act, it makes this credit available for costs incurred in coke oven reconstruction before January 1, 1991, so long as engineering studies have been completed and necessary environmental and contruction permits have been applied for before January 1, 1983, and binding contracts to acquire at least 50 percent of the cost of all permanent equipment have been entered into before January 1, 1986. The effect will be to facilitate steel companies' planning and investment; and encourage them to advance their time schedules for rehabilitating coke

ovens. Lost coke production capacity caused by premature equipment retirement would be more rapidly replaced. And the sooner our domestic production decline can be checked, the less foreign coke we will need to import in the years ahead.

The cost of this amendment would be a cumulative maximum of $277 million over 6 years.

I strongly urge your support. We have here a way to respond to so many critical problems in a reasonable and constructive manner. We can bring an industry into compliance with environmental regulations not by forcing it to shut down operations, but by encouraging it to rebuild and modernize. We can take advantage of coal lying ready-to-hand under our own soil, rather than going to the costly absurdity of importing a coal product from abroad. We can boost our production of a proven alternative fuel, and decrease our need to rely upon uncertain foreign sources for our energy supply. The benefits will be greater energy self-sufficiency, more jobs for workers in regions of our Nation that suffer from chronic underemployment, stronger domestic steel and coal industries, and a check on the perilous burgeoning of our balance-of-payments deficit.

Mr. President, I have discussed this amendment with the minority manager of the bill and with the majority manager. I understand that Senator DOLE supports the amendment, and I know of no objection to it.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. DOLE. Mr. President, the Senator from Kansas has no objection to the amendment. In fact, I support the amendment and supported it at the time it was discussed in the committee.

I am not certain that the Senator recited the cost per barrel, but it is about $9.

Mr. HEINZ. According to the figures prepared for us by the Joint Committee on Taxation, the cost per barrel saved over the 3 years of this amendment would be approximately $9.23. Obviously, when you are paying $18 or $23.50 for the on-the-spot market price of $30 or $40 per barrel, that is an investment we should not pass up.

I thank the Senator for raising that point.

Mr. DOLE. I have no objection to the amendment.

Mr. HEINZ. I yield the floor.

Mr. LONG. Mr. President, this is not a minor amendment. This amendment does have a revenue impact that the Senate would like to know.

It is estimated that this would cost $17 million in calendar year 1980. Over a period of time, the cost would increase as the credit would be used in more and more facilities, and by 1982 it is estimated that the cost would be $277 million. If this were extended through 1990, the cost would go up to about $858 million.

Mr. President, this matter was considered when the Senate was considering another major energy bill which was reported by the Finance Committee some 2 years ago, and the amendment was agreed to by the Senate. It was not agreed to in conference because of opposition on the House side.

Mr. President, I am very much aware of the support for the amendment. The Senator from Pennsylvania is joined by the majority leader, Mr. ROBERT C. BYRD, by the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the senior Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Indiana (Mr. BAYH), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. WARNER), and the Senator from Alabama (Mr. STEWART).

Mr. President, personally, I have no objection to the amendment, and I am not aware of anyone who is strongly opposed to it. I assume that there may be some opposition on the House side. However, for the purpose of offering the Senate the opportunity to vote on it and to propose that the House consider it, I would be willing to vote for the amendment. If anyone cares to oppose the amendment, I will be glad to hear the argument. I am not aware of any opposition to the amendment here.

● Mr. GLENN. Mr. President I join my colleagues in urging passage of this amendment to the Crude Oil Windfall Profit Tax Act of 1979. This amendment, which I have cosponsored with Senator HEINZ and others, would assure the eligibility of coke-gas producing equipment for the additional 10-percent alternative energy property tax credit enacted last year.

Passage of this legislation is of critical importance to our Nation's balance of payments, the modernization of our steel industry and the economic viability of Ohio's coking industry.

Coke is an essential fuel in the production of iron and steel. The U.S. steel industry presently derives approximately two-thirds of its energy needs from coke and coke-gas. In recent years, however, the U.S. steel industry has seen its domestic supplies of coke diminish at an alarming rate. Since 1970, U.S. coke production has fallen 25 percent, with Ohio coke production down 33 percent. This dramatice decline has been matched by a dramatic rise in coke imports. According to a report on the U.S. coke industry, coke imports jumped from 1.8 million tons in 1977 to 5.7 million tons in 1978. These alarming statistics are particularly disturbing in light of the fact that the United States has the largest and best coking coal reserve in the world and that Ohio itself accounts for 16 percent of U.S. coke production.

This growing dependence on foreign sources of coke is unnecessary and can be overcome. The shortage of coking capacity in the United States is due to the lack of capital required to build new coke ovens and bring old ovens into compliance with environmental standards. This amendment would provide an incentive for new investments in the modernization and expansion of coking facilities. In so doing it would help to reinvigorate the U.S. steel industry and stabilize employment in Ohio's steel communities where readily available coal and an abundance of skilled labor await this opportunity to revive America's coking capacity.●

Mr. ROBERT C. BYRD. Mr. President, I am pleased to cosponsor an amendment to the windfall profits tax that will assure the eligibility of coke-gas producing equipment for the alternative energy tax credit enacted in 1978.

In 1973, total U.S. coke production was 63.5 million tons. The 1979 total is estimated to be about 52.5 million tons. The reduction of 11 million tons translates into 16 to 19 million tons of metallurgical coal, which would be mined by 10,800 coal miners. In West Virginia alone, here are 8,500 metallurgical coal miners unemployed today and countless others that are working shortened work weeks.

The cumulative effect of certain environmental regulations may hinder efforts by the coke industry to maintain and expand its currently reduced manufacturing capacity. The industry must replace rapidly aging equipment and invest in required environmental controls. This is the kind of investment that the alternative energy tax credit should encompass in order to encourage the use of nonpetroluem energy sources and increase our energy selfsufficiency. The promotion of coke production through such investment will insure the industry's vitality and guarantee maximum employment opportunities for our coal miners.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HEINZ. Mr. President, we have sent a "Dear Colleague" letter on this amendment and advised each Senator's office. I am aware of no objection to the amendment. On that basis, I would be willing to yield back the remainder of my time.

Mr. LONG. Mr. President, I believe the Record sufficiently shows what the merits of the amendment are. So far as I am concerned, I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Pennsylvania.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, while waiting for someone to offer an amendment, the Senator from Kansas will take a few moments to discuss amendment No. 629, which I may call up later or may modify or revise to accommodate the interests of other Senators. I will not offer the amendment at this time.

My amendment is designed to ease the troublesome cash flow problems faced by fuel oil dealers as a result of greatly increased oil prices. These increases are due, in part, to the decontrol of domestic oil prices, and therefore, this issue is tied directly to the measure before us. The amendment simply increases the statutory ceiling on Small Business Ad-

ministration guaranteed loans to fuel oil dealers from the current $500,000 to $1 million. While such an amount may seem excessive on its face, the fact that fuel oil prices have nearly doubled in the last year means that the increase actually keeps the maximum amount of the available loans in line with the amount that was available to dealers last year.

Mr. President, everyone is concerned about the impending fuel oil crisis created by rising OPEC prices and decontrol of domestic oil. Most people are aware of the impact of higher prices on consumers, particularly the aged and poor who live on fixed incomes or very limited, already strained budgets.

We are familiar with the horror stories of old people freezing and poor people having to choose between food and heat, and we are demanding that something be done to solve the problem. The Senate spent 3 days recently addressing that very issue, and both the Finance Committee and the Labor and Human Resources Committee devoted several weeks to the problem this fall.

There is a related problem that has not had the same kind of attention—a problem that is particularly prevalent in areas where heating oil is widely used. That problem is the impact of greatly increased oil prices on small and medium sized fuel oil dealers. We had testimony on the issue before the Finance Committee.

I think to summarize the problem, in some areas because of the increased OPEC prices and because of the shortened credit terms, some of the fuel oil dealers are almost required to demand cash on the barrelhead when the fuel oil is delivered.

The financial stability of fuel oil dealers is an integral part of the energy crisis facing us this winter. If we do not take steps to assure the viability of these businesses, the impact on consumers will be much harsher than many realize. The Better Home Heat Council is predicting that 300 fuel oil dealers in New England alone will go out of business in the next 30 months unless some assistance is provided, and business failures in the industry could mean homes without heat during the winter.

My staff and I have spent the last several weeks discussing this matter with fuel oil dealers, bankers, accountants, and others who are familiar with the financial crisis which is brewing. I have learned that fuel oil companies, which are generally family businesses with traditionally low profit margins, are facing new capital demands this year which can only be described as frightening.

The problem facing fuel oil dealers is one of cash flow, that is, having sufficient money on hand to pay their own bills while waiting to receive payments due from customers. There are two factors which contribute to the cash flow problem.

On the supplier side, dealers have to pay more for the product they buy and they have to pay sooner (within 10 days or less) without receiving cash discounts previously available to them for early payment. Unfortunately, oil producers and suppliers have not been responsive to suggestions that they improve credit terms to dealers. It would certainly go a long way toward solving the cash flow problem for dealers if the suppliers would return to the 30-day credit terms of last year. But now I understand in most cases it is probably 10 days or less. That is on the supplier side.

On the customer side, dealers accumulate greater customer debt for the fuel they sell, although they do not sell a larger volume than last year, and their customers are having more trouble paying in a timely manner. Some banks have instituted agreements with dealers to allow customers to buy heating oil with credit cards. While this is helpful, many of the problems with collecting on customer accounts will remain despite such financing arrangements.

To put it simply, on the one hand, dealers have to come up with substantially more money in a shorter period of time to pay their suppliers, and on the other hand, they are owed a lot more money which they often have to wait longer to get. If the fuel oil dealers do not pay their suppliers, they are cut off immediately. If their customers do not pay them, the dealers generally end up carrying them on the books for an extended period.

The fuel oil dealers feel they are at the mercy of their suppliers, many of which are large oil companies. As one New Hampshire small businessman put it, "The oil companies have us in a compromising position. We can't get supplies anywhere else. They say 'We are raising the price,' and we have to say 'Thank you very much'."

A lot of concern has been expressed in this Chamber that consumers are having their heating oil supplies cut off. While it is true that some consumers have been cut off, that is the exception rather than the rule. Most often a fuel oil dealer only makes the decision to cut off a customer if the alternative is the failure of his business.

A Massachusetts dealer told me that a customer recently called to explain his financial problems and showed that he would be unable to meet the $75-a-month budget payment plan which the dealer had set up for him. The dealer agreed that the man could pay $50 a month instead and asked that he pay additional amounts whenever he had the money.

A fuel oil dealer in Vermont explained the problem in depth:

> The impact on consumers will be about double this year. There are widows and elderly people up here who live on limited incomes. They want to do what's right, and they feel awful about not being able to pay their bills, but they have nowhere to turn. I don't want to cut them off, so I carry them. But that means I have to finance their debt, and it's costing me more than 14 percent interest. I'll pay a minimum of $30,000 in interest charges this year. If I go out of business, then what will my customers do?

These concerns are echoed by fuel oil dealers everywhere.

When you put the supplier and the customer sides of the accounting equation together, you come up with a much larger debt to be financed through bank loans this year than last. Simply, because of higher fuel prices, most dealers will have to borrow between 50 and 100 percent more than they borrowed last winter.

This is sort of the Catch-22. The banks, of course, when they want to increase the loan or double the loan, take a look at the dealer's net worth, which really has not grown in the past year. They are, therefore, reluctant to lend them the additional money they need to stay in business. This reluctance is justifiable because oil distributor margins have not adequately covered the increased costs being experienced.

One Maine dealer, who has had his company's needs analyzed in a detailed accounting study, found that in 1980 he will have to borrow a minimum of $435,000 compared to $100,000 last year. He is trying to get additional money from the bank using his accounts receivable as collateral—something never done before. If the bank does not go along, he will probably have to go out of business. As he pointed out, he is one of the more sophisticated dealers who has an established line of credit with the bank. There are a lot of small fuel oil dealers in New York, New England, Minnesota, Wisconsin, and all across the country in areas where heating oil is used.

The Small Business Administration (SBA) has not been idle on this question in the last several months. SBA recognized the problem facing the fuel oil dealers and began making administrative changes earlier this year to assist them and I commend the SBA for that. Among the actions taken are the following:

First. Several task forces have been set up around the country to look into the fuel oil dealers' cash flow problems and to make recommendations for legislative and administrative changes in the current SBA program to mitigate those problems. The task forces are made up of small- and medium-sized retail fuel oil dealers, bankers, accountants, State energy officials, and SBA officials.

Second. Size standards for retail heating oil dealers eligible for SBA loan programs have been increased from $2 million annual gross revenues to $6 million. There is a pending plan to allow dealers with 100 employees or less to qualify as well, since the dollar sales volume standard may quickly go out of date.

Third. SBA is making special efforts to extend to fuel oil dealers the program which guarantees up to 90 percent of loans made by banks for a seasonal line of credit. The statutory ceiling on such loans is $500,000.

Fourth. Fuel oil dealers and jobbers in all 50 States have been declared eligible for special low-interest economic dislocation loans up to $100,000. This is in recognition of the fact that they are caught in a crunch between high wholesale oil prices and a lack of credit.

The New England SBA task force, after seven meetings over the last 3 months, made its final recommendations to SBA last week. The recommendations, which are directly keyed to the needs of the fuel oil dealers, are as follows:

Increase the statutory ceiling on SBA guaranteed loans to fuel oil dealers from $500,000 to $1 million with a 90-percent guarantee and interest at prime rate.

Increase the statutory ceiling on economic dislocation loans to fuel oil dealers at 8¼ percent interest from $100,000 to $500,000.

My amendment would implement the first recommendation only. Since fuel oil dealers have just recently been made eligible for economic dislocation loans, I do not feel it would be appropriate to seek to increase the ceiling on those loans at this time.

It is my understanding that in the past the Small Business Committee has rejected an increase to $1 million in the statutory ceiling on regular SBA loans on the basis that such a sum is out of the realm of small business. I certainly understand the reluctance of the committee members to approve such a large increase, particularly as a general rule. However, I believe the situation faced by fuel oil dealers is unique and merits a drastic increase. These retailers have experienced a doubling of prices in recent months so the increase actually keeps the maximum loan available at a level equal to last year's ceiling.

It is anticipated that this amendment will have little or no cost. As under existing SBA guaranteed loans, fees will be charged to cover administrative costs and actions will be taken by SBA to minimize loan defaults. Since the banks will be making the initial credit judgment on the dealers, it is unlikely the increased loans would be provided to anyone who is going to fail.

Admittedly, I am not suggesting that this change in the current SBA loan program will cure all ills faced by the small- and medium-sized fuel oil dealers. Efforts to provide low- and middle-income consumers with assistance to pay their fuel bills are also important.

Furthermore, the continued pressure should be put on oil suppliers to ease their credit terms to the dealers. Down the road, some consideration will need to be given to providing guaranteed loans to retail fuel oil dealers to acquire failing fuel oil companies.

This is a matter that we hoped to incorporate in this bill but are not doing at this time. It is my view that we should adopt this even though it is not under the purview of the Finance Committee, because it is something that must be done in addressing the needs of many Americans in the next few months.

For now, the increased guaranteed loans provided under this amendment will help many fuel oil dealers to stay in business despite current price aberrations. Eventually other factors will bring oil prices back in line with the rest of the economy. In the interim, this amendment will help to maintain private sector funding for fuel oil dealers thereby providing protection for consumers and small businesses and warding off a real disaster this winter.

Mr. President, notwithstanding the weather pattern that has occurred across much of the country in the past several weeks, and even part of today, winter will soon be coming. I am not certain when this bill will finally pass and be on the President's desk for signature but, hopefully, before the new year begins. It will probably take all of that time for the bill to pass the Senate, and go to conference, and for the conference report to be approved by the House and by the Senate. Therefore, if we really intend to do anything this year, this is the appropriate vehicle.

We are dealing with energy, we are dealing with taxes, we are dealing with low-income assistance, we are dealing with the energy problem, and I certainly hope this amendment No. 629 could be accepted in that spirit.

Again, I understand what might be some reluctance to accept the amendment since the Finance Committee does not have jurisdiction. We are in the process of contacting members of the Small Business Committee who have indicated their interest in the general subject.

Let us keep in mind fuel oil prices have tripled since 1973; they have nearly doubled in the past year; and small- and medium-sized retail fuel oil dealers face severe cash flow problems because the credit extended by their suppliers has been shortened from 30 days to less than 10 days in some cases; and they have been required to borrow larger sums of working capital from banks, even though their net worth remains pretty much the same, and, in many cases, has declined.

We have a $500,000 limit on loans now in the Small Business Administration, and what we seek to do here is to increase that to $1 million for fuel oil dealers, to maintain the guarantee level of 90 percent, and the interest rate under the current program.

Costs are negligible. The administrative costs will be covered by fees to the dealers, which will be offset by slightly lower interest rates than the market rate. The banks will take precautions to minimize losses; they will be scrutinizing the borrowers, as they would do in any case, and I assume in most cases it will be customers they have had for a long period of time in any event, so there should not be many defaults.

I think along with this we need to do several other things. We must urge suppliers to improve their credit terms to retail fuel oil dealers, and hopefully even this concern expressed today will encourage the supplier to take that step. We should give consideration to providing SBA-guaranteed loans to fuel oil dealers for the acquisition of failing fuel oil dealerships as well, since some dealers are going out of business and their customers will have to be served.

We should give consideration to raising the statutory ceiling on SBA economic dislocation loans to fuel oil retailers.

We should grant middle-income consumers of fuel oil a tax credit to help them to pay their fuel oil bills.

Finally, energy assistance to low-income consumers of fuel oil should be greater and more timely than in the past, and certainly that is an area we will be addressing in the overall bill.

Mr. President, as I indicated at the outset, I will not call up the amendment at this time. I would like to discuss it with Senator NELSON, Senator WEICKER, and others who have indicated an interest.

Since there is nobody else here to speak on the pending amendment, I thought it might be an opportunity to explain what I propose to do and which will save us some time later on.

I am perfectly willing to yield the floor.

Before I suggest the absence of a quorum, I want to express not my pleasure, in a sense that the amendment of the Senator from Arkansas was tabled, but my hope that that vote will be an indication of some confidence in the Senate Finance Committee.

As the distinguished majority leader said, the Senate Finance Committee worked weeks and weeks and weeks and we believe that our bill is a good one. There may well be some changes in part of the bill. Not all of the wisdom resides in the Senate Finance Committee, but there are some diverse views and opinions expressed in that committee from time to time.

The distinguished Senator from New York indicated he would have some amendments to the Senate Finance Committee bill. I am not certain what those amendments are, but there probably will be some amendments addressed to certain provisions of the bill reported to the floor.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. DOLE. Yes; I would be happy to yield.

Mr. BUMPERS. Does the Senator have any feel for how the Finance Committee as a whole would feel about exemptions for independents of 500 barrels per day? I think maybe the Senator from Texas has an amendment of 1,000 barrels per day.

Mr. DOLE. Well, the Senator from Kansas would support the Bentsen amendment on the theory that in conference—and I do not know what will happen in conference—a thousand barrels a day is a stronger position.

Mr. BUMPERS. I expressed my opinion about the whole thing earlier, but one of the concerns I have is that I thought if my amendment was not tabled, it would be much easier, for example, for me to vote for the Bentsen amendment, and I would certainly be happy to vote for the Nelson amendment. I have a lot of independent producers in my State, and they spend just about all they take in exploring, and those people are entitled to some consideration.

One of my big concerns is that the Bentsen amendment, I think, will cost on the order of $40 billion. By taking that off the $135 billion total of the Finance Committee bill would only leave about $95 billion in it. Are those figures correct so far as the Senator from Kansas knows?

Mr. DOLE. I am not certain about the costs of the Bentsen amendment because the committee bill contains a 1,000 barrels a day amendment of stripper production. The cost would be absorbed in the cost of the Bentsen amendments.

Mr. BUMPERS. We may be talking about two different things, Senator.

I think the Senator from Texas has two amendments, one dealing with 1,000 barrels per day stripper exemption and the other a 1,000 barrel per day exemption of the independent producers. I think they overlap a lot, but it was my understanding, that the Nelson amendment would exempt 500 barrels per day for the roughly 12,000 independent producers in this country, and that the exemption would cost on the order of $21 billion.

I just assumed that if we went to a thousand barrels a day, that exemption could cost on the order of $40 billion.

Mr. DOLE. The staff is checking, not the exact figure but the estimated projected cost of the Bentsen amendment as compared in the cost of the 1,000-barrel exemption for strippers now in the bill. Is that information available to the Senator from Montana?

Mr. BAUCUS. Mr. President, if the Senator will yield, the staff informs me that the amount we reported on in the committee was $9.9 billion for 10 years.

Mr. BUMPERS. $9.9 billion?

Mr. BAUCUS. $9.9 billion, that is correct, over and above the $16 billion already provided for. That would be roughly $26 billion.

Mr. BUMPERS. $26 billion for what, the stripper exemption?

Mr. BAUCUS. All producers.

Mr. BUMPERS. That would cost what, roughly $26 billion?

Mr. BAUCUS. That is correct, of which, according to my understanding, $16 billion is already provided for.

Mr. BUMPERS. Did I correctly understand that the Senate Finance Committee did not except secondary and tertiary recovery?

Mr. BAUCUS. Tertiary was exempted, but not secondary.

Mr. BUMPERS. What did the Finance Committee project the cost of the tertiary exemption would be?

Mr. BAUCUS. According to the estimate, the exemption for tertiary production amounts to $27 billion over 10 years.

Mr. BUMPERS. How about secondary? Does the Senator have a figure for what secondary would cost?

Mr. BAUCUS. We do not have a precise estimate for that, but as a general rule of thumb, secondary recovery amounts to half of the domestic oil production in the United States.

Mr. BUMPERS. Or roughly 5 million barrels a day?

Mr. BAUCUS. Approximately. Closer to 4 million barrels a day.

Mr. BUMPERS. Did the House make any exemption for secondary and tertiary recovery?

Mr. BAUCUS. No; none whatsoever. It was not even considered, either on the floor or in committee.

Mr. BUMPERS. I thank the Senator.

Mr. DOLE. The point I want to make—if I understood the Senator from Arkansas correctly as to the exemption of the first thousand barrels per day stripper oil production by independents as it is now in the committee measure—is that it will reduce revenues in the House bill by $16 billion. It is my understanding the so-called Bentsen amendment, which would broaden the exemption across the board for independents, would reduce revenues by an additional $9.9 billion. I do not know where the figure of $40 billion may have come from, but I do not find that anywhere in the tables.

Mr. BUMPERS. Yes. If we exempt 1,000-barrel strippers and 1,000 barrels total for independents, those would overlap. I do not know whether we can get a cost on both of them or not, but I would like to see the figures for each, and then the composite figure for the two.

Mr. DOLE. I will be glad to get that for the Senator from Arkansas. I think if we adopt the Bentsen amendment, we would be adding—or losing, depending on how it is viewed—about $9.9 billion over a 10-year period. We are looking at trying to offset that by either increasing the production we now have or increasing the incentive to produce. But the amendment we have in the bill for independent producers, the cost of that amendment over a 10-year period is about $16 billion.

I will obtain those figures. I think perhaps, based on the way the model works and how it all adds up, it might be well if we could get that information together. I ask unanimous consent that when it is gathered together, it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Revenue loss of independent stripper exemption, $16.2 billion.

Revenue loss of independent exemption of 1,000 barrels per day, $9.9 billion.

Mr. DOLE. We can have the information requested by the Senator from Arkansas.

I see the Senator from Texas has arrived. We were discussing the total impact of the amendment that the Senator from Texas may be offering today regarding a 1,000-barrel exemption. How much additional revenue loss there would be if that replaced the 1,000-barrel provision we now have in the Senate Finance Committee bill.

Mr. BENTSEN. That is approximately a $9.9 billion revenue loss over 10 years, but by the same token, we would bring on increased production of approximately 1 billion barrels over 10 years. What that means is, you would have a cost of finding new oil of something less than $10 a barrel, and certainly that is a lot cheaper than any synthetic program we have thought of or put in this bill—which I supported, incidentally.

This is the cheapest way. Of course, again, we are thinking about providing additional competition. We are talking about the group of people who put it back in the ground. The testimony before our committee showed that we are talking about 105 percent of the revenue paid at the wellhead is put back into exploration by independents, and they, in turn, are finding most of the new oil.

If you really want something to keep jobs in this country, help in our balance of trade, and try to bring on new energy at a cheaper cost, then anything we can do along the lines of trying to encourage that independent is something we should do.

Mr. DOLE. I thank the Senator. I certainly support his amendment.

The Senator from Arkansas has requested certain information on the approach of the amendment of the Senator from Texas, and I will provide that information for the RECORD.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 840

(Purpose: To require Congressional review of any rule, regulation or order establishing limits on the total volume of petroleum imported into the United States or any fee on such imports)

Mr. JOHNSTON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 840.

Mr. JOHNSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 179, after line 21, insert the following new section:

SEC. 402. OIL IMPORT RESTRICTIONS.

(a) FINDINGS.—Congress finds that—

(1) action by the President establishing a quota on the total volume of petroleum imported into the United States or a fee, duty or tariff on such imports, in order to limit their total volume, will have far-reaching effects on the energy policy of the United States;

(2) such action may require the imposition of Federal petroleum price and allocation controls or other Federal intervention in domestic fuels markets to insure the attainment of the public policy objectives set forth in the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 through 760), as amended;

(3) such action may significantly affect the rates of production of domestic energy resources and alter the pace of the development and commercialization of alternative forms of energy;

(4) such action may significantly influence policy planning and capital construction decisions for the domestic fuels supply system, including the domestic refining industry;

(5) such action may have severe effects on interstate commerce, the domestic economy, and the national security of the United States; and

(6) the implications of such action should be examined by Congress and the public and an opportunity afforded Congress to veto any proposal by the President to establish a fee, duty, tariff, or quota on imports of petroleum.

(b) PURPOSE.—It is the purpose of this section to require the President to submit

to Congress for review under expedited procedures any rule, regulation or order which establishes limits on the total volume of petroleum imported into the United States or any fee, duty or tariff on such imports to limit such total volume.

(c) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Part A of title I of the Energy Policy and Conservation Act (Public Law 94–163) is amended by inserting at the end thereof a new section as follows:

"LIMITATIONS ON OIL IMPORTS

"SEC. 108. (a) Notwithstanding any other provision of law, the President may not make effective any rule, regulation or order establishing limits on the total amount of crude oil, residual fuel oil or any refined petroleum product imported into the United States or any fee, duty or tariff on such imported crude oil, residual fuel oil or any refined petroleum product unless such rule, regulation or order—

"(1) has been transmitted as if it were a rationing contingency plan to Congress in accordance with section 552 and

"(2) has not been disapproved by a joint resolution adopted into law after passage by both Houses of Congress in accordance with such section 552, as amended by the Emergency Energy Conservation Act of 1979 (Public Law 96–102).

"(b) As used in this section the term 'United States' means the States, the District of Columbia, Puerto Rico and the territories and possessions of the United States."

Mr. JOHNSTON. Mr. President, this is the same amendment that the Senate passed a couple of weeks ago by a vote of 70 to 23. It is supported by the administration, by partisan support, as well as the oil companies, labor, and just about everybody else I know. It would prohibit the President from establishing an import fee or quota unless the proposition was sent down to Congress and Congress had a chance to act on it.

In order for Congress to veto it, it would take a joint resolution, both Houses, which joint resolution, of course, could in turn be vetoed by the President and that veto, in turn, could be overridden only by a two-thirds vote of each House.

So what this does, Mr. President, is represent, as we indicated in the debate which we had on this measure previously, a compromise that maintains the position of Congress in our constitutional system. A measure as far reaching as a quota or fee should involve Congress, and that is precisely what this measure does. And because of that, of course, this Senate passed it previously by a vote of 70 to 23.

The reason we are putting it on this bill, Mr. President, is that the House Ways and Means Committee considered this measure as a revenue measure when it went over to the House as an amendment to the International Energy Agency legislation. It is an amendment to the Trade Expansion Act and they are rather jealous about their jurisdiction. I hope that because of the broad support for this measure in the House that they would overlook whatever jurisdictional deficiencies it had. Nevertheless, because of the jurisdictional problem, they blueslipped the measure and, for that reason, we need to put it in on this bill.

Today I am asking, with the concurrence of the distinguished floor manager for the majority (Mr. LONG), that the Senate reaffirm its position that the Congress should have a role in any decision by the President to impose a quota on the total volume of petroleum imported into the United States or a substantial fee, duty or tariff on such imports.

On October 30, 1979, by a vote of over 3 to 1 (70 to 23) the Senate adopted the concept embodied in the language I am offering today. That vote added an amendment to S. 1871, a bill extending the life of the provisions of the Energy Policy and Conservation Act which provide a limited antitrust defense to oil companies participating in the international energy program. Subsequently, the House of Representatives returned S. 1871 to the Senate on the grounds that this amendment, while not necessarily objectionable on substantive policy grounds, nevertheless infringes on the prerogatives granted to the House under the Constitution to originate legislation affecting the revenues of the Federal Government. I recognize this strongly held view of the House.

I am, therefore, offering essentially the same amendment to H.R. 3919, a revenue bill (of immense revenue proportions) which in fact originated in the House. The policy proposed is the same: That the Congress ought to have a meaningful role in decisions of the magnitude, in economic terms, of the establishment of a quota on the total volume of petroleum imports or the limitation of such imports through the pricing mechanism, using a fee, duty, or tariff. This issue transcends jurisdictional considerations. I know that the managers of the bill are in agreement with me on this point. Therefore, I am confident that they will lend the full force of their influence in support of this provision in the House-Senate conference on H.R. 3919.

The administration did not oppose this amendment when it was offered on October 30, 1979, to the legislation extending the life of the statutory antitrust defense for oil companies cooperating with the International Energy Agency. The administration does not oppose it now. This is a welcome recognition by the executive branch of the need for cooperation and national unity on an issue of such major economic importance as the issue of the level of U.S. petroleum imports. To be credible in the international community, and credible with the OPEC cartel, the United States must espouse a unified, coherent position. This amendment assures that this will be the case with regard to petroleum import policy.

The legislative history of this provision should be clear with regard to the impact of my amendment on the President's authority to implement, without congressional review, a limitation on the importation of petroleum from a particular nation for purposes of national security. The President has exercised authority currently available to him under section 232(b) of the Trade Expansion Act of 1962 to prohibit the importation of crude oil and petroleum products produced in Iran. The vast majority of the American people and, I believe, a substantial majority of Congress, are in support of this action by the President.

My amendment would not in any way restrict the authority of the President to take this action or another similar to it. This amendment addresses the bottom line with regard to petroleum imports, that is, the total volume of imports, not the value of individual terms in the equation for the calculation of that bottom line. What we are attempting to do is to prevent the President from employing his authority under existing law to create gasoline lines or heating oil shortages without congressional involvement. The existence of any such shortage is a function of the total level of imports of petroleum into the United States. A limitation on imports from a particular nation (such as Iran) need not limit this total volume of U.S. petroleum imports. And the President, in forbidding Iranian oil imports, has not in fact proposed any limitation on the total volume of petroleum imported into the United States. The amendment I am offering would leave the President free to control imports from a particular nation for purposes of national security, while requiring congressional review of any proposal to limit the total volume of imports (or a fee on imports) from all countries supplying the United States with imported petroleum.

Mr. President, the amendment I am offering has passed the test of Senate approval in previous action on the Senate floor. That action did not result in serious consideration of this very important policy issue by the House because of institutional (rather than substantive) considerations.

I hope to overcome the institutional barriers to consideration of the substantive issues with the introduction of this amendment to H.R. 3919. I hope the Senate will reaffirm its support of these basic policy considerations in its support of my amendment.

I would like to move the adoption of the amendment.

Mr. BAUCUS. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes.

Mr. BAUCUS. Has this amendment been cleared with the chairman of the committee?

Mr. JOHNSTON. Yes. And, of course, the chairman is off the floor at this point. I just asked the staff if it was suitable to bring it up at this point and their reply, I believe, was that it would be. If they have any different indication at this point, I would be glad to lay it aside until the chairman comes back.

Mr. BAUCUS. Would the Senator mind if we hold this at this time until the chairman is present?

Mr. JOHNSTON. That is fine. I asked that question of the staff and they said there is no reason not to proceed. But I certainly, out of an abundance of caution, would prefer to wait until the chairman is back, if there is any doubt at all.

Mr. President, I ask unanimous consent that the amendment, unless somebody has a question to ask of me at this point, be laid aside until the chairman comes back. If there is any question to be asked at this point, I will be glad to yield to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

UP AMENDMENT NO. 841

(Subsequently numbered amendment No. 698)

(Purpose: To provide an exemption from the tax for all stripper oil)

Mr. BOREN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment numbered 841:

Strike line 19 page 59 through line 15 page 64 and insert in lieu thereof the following:

"'(d) STRIPPER OIL.'—For purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), the term 'stripper oil' means crude oil removed from a stripper well property as defined in the June 1979 energy regulations.".

Mr. BOREN. Mr. President, this amendment would simply extend the stripper oil definition to apply to all stripper wells, that is those wells producing 10 barrels per day or less. Congress has long recognized that there should be a policy of providing special treatment for stripper wells. After Congress provided for special treatment, decontrolling the price of stripper wells several years ago, the number of abandonments of those wells went down by 500 percent, preserving this very valuable resource for the people of this country. That is the reason that I am proposing that we extend this exemption to cover all stripper wells, so that we can have economic incentives for preserving all of the production of this kind in the United States.

Mr. BENTSEN. Mr. President.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Texas (Mr. BENTSEN)?

Mr. BOREN. I yield to the Senator from Texas.

UP AMENDMENT NO. 842

(Subsequently numbered amendment No. 699)

Mr. BENTSEN. I have an amendment in the nature of a substitute that I send to the desk and ask that it be reported.

The PRESIDING OFFICER. Is the Senator from Oklahoma (Mr. BOREN) yielding for that purpose?

Mr. BOREN. I yield for that purpose.

The PRESIDING OFFICER. The clerk will report.

Mr. BENTSEN. I would ask that we check the amendment number of the Senator from Oklahoma to be sure I have the right number on that.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) for himself and Mr. BOREN proposes an unprinted amendment numbered 842 to unprinted amendment numbered 841 by the Senator from Oklahoma (Mr. BOREN).

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the Boren amendment No. 841 insert the following:

On page 59, beginning with line 19, strike all through page 64, line 15, and insert in lieu thereof the following:

"(d) QUALIFIED STRIPPER OIL.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'qualified stripper oil' means so much of an eligible taxpayer's qualified production during any taxable period beginning after September 30, 1980, as does not exceed the product of—

"(A) 1,000 barrels, multiplied by

"(B) the number of days during the taxable period.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED PRODUCTION.—

"(i) IN GENERAL.—A taxpayer's qualified production during any taxable period is the number of barrels of crude oil—

"(I) which are removed from any property during such taxable period; and

"(II) with respect to which such taxpayer is liable for the tax imposed by section 4986 (determined without regard to this subsection and section 4988(a)(4)).

"(ii) ROYALTY OWNERS.—In the case of the holder of any royalty or similar interest, the qualified production of such taxpayer from each property shall be equal to an amount which bears the same ratio to the amount of the total barrels of production of such taxpayer from such property (determined without regard to this subsection) as—

"(I) the working interests held by eligible taxpayers, bears to

"(II) the working interests held by all taxpayers.

"(iii) TRANSFERRED PRODUCTION.—A taxpayer's qualified production shall not include production from a property to the extent the taxpayer's interest in such property was held by an integrated oil company on October 24, 1979.

"(B) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any taxpayer other than—

(i) an integrated oil company or a partnership, or

(ii) any Member of Congress serving during the Ninety-sixth Congress or any member of such Member's family (within the meaning of section 267(c)(4)).

"(C) INTEGRATED OIL COMPANY.—The term 'integrated oil company' means any taxpayer described in paragraph (2) or (4) of section 613A(d).

"(D) ALLOCATION AMONG RELATED PERSONS.—

"(i) In the case of persons who are members of the same related group during the taxable period, the 1,000 barrel amount contained in paragraph (1) for days during such period shall be reduced for each person by allocating the 1,000 barrels among all such persons in proportion to their respective qualified production during such period.

"(ii) RELATED GROUP.—For purposes of clause (i), the term 'related group' means—

"(I) a controlled group of corporations (as defined in section 613A(c)(8)(D)(i)),

"(II) a group of entities among which an allocation would be made under subparagraph (B) of section 613(c)(8), and

"(III) members of the same family (as defined in section 613A(c)(8)(d)(iii)).

"(3) TREATMENT OF PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this subsection, the qualified production of a partnership—

"(i) shall be equal to the qualified production of the partnership (determined without regard to this paragraph) reduced, under regulations prescribed by the Secretary, by an amount which bears the same ratio to such amount as the interest of partners in such production who are not eligible partners bears to the interest of all partners in such partnership, and

"(ii) as so reduced, shall be allocated to eligible partners in the manner provided under this paragraph.

"(B) ALLOCATION.—In the case of the qualified production of a partnership from any property, an eligible partner shall—

"(i) for purposes of paragraph (1), be treated as having produced, and

"(ii) for purposes of section 6429, be treated as having paid the tax,

with respect to an amount equal to his eligible partnership interest in so much of the qualified production of the partnership as does not exceed the product determined under paragraph (1) for such taxable period.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) ELIGIBLE PARTNERSHIP INTEREST.—The term 'eligible partnership interest' with respect to any qualified production means that portion of such production which bears the same ratio to the total production as an eligible partner's interest in such production bears to the interest of all eligible partners.

"(ii) ELIGIBLE PARTNER.—The term 'eligible partner' means any partner who would be an eligible taxpayer with respect to such production.

"(4) COMPUTATION OF TAX FOR EXCESS PRODUCTION.—If the qualified production of an eligible taxpayer during a taxable period exceeds the amount which may be treated as qualified stripper oil under paragraph (1), the windfall profit, for purposes of determining the amount of the tax imposed by section 4986 with respect to such excess, shall be equal to an amount which bears the same ratio to the amount of windfall profit on the total barrels of qualified production (determined without regard to this subsection) as—

"(A) the number of barrels of such excess, bears to

"(B) the number of barrels of such qualified production."

Mr. BENTSEN. Mr. President, this is an amendment that has been discussed for some time. And this is an amendment that, in effect, is what I had previously proposed which has a substantial number of cosponsors.

I would like to explain very briefly what this amendment is. I think it is a necessary component of any rational national energy program in this country.

My amendment would exempt from the windfall profit tax the first 1,000 barrels per day of oil production by independent producers.

Mr. President, in all the controversy, in all the debate about the windfall profit tax, I have yet to hear anyone suggest that it is not in our best interest to encourage increased domestic production of oil and gas.

The logic of increased domestic production is overpowering. Every additional barrel of oil produced in America is one less barrel of oil we are forced to purchase from OPEC. Increased domestic production does not require long lead times or high startup costs. American dollars spent for American oil are recycled through our economy, creating wages, jobs, investment, dividends, and capital for more exploration and more production right here in the United States.

In discussing this a little earlier with Senator DOLE, we got to talking about what this means in the way of lost tax revenue.

The estimate of the joint tax committee is that this will mean a loss in tax revenue of $9.9 billion. But there are

estimates that also say it will mean an increase of approximately 1 billion barrels of oil over that period of time. So what you are talking about is the cost of finding new oil being something less than $10 a barrel. I do not know of any synthetic program that we have considered, that we have evaluated in the Finance Committee, that we have talked about on the floor of the Senate or in the House of Representatives, that approaches that kind of a cost. All of them have been substantially more.

If we are going to do something about the balance of trade, if we are going to do something about the horrendous cost of importing increased amounts of oil into this country, then let us do something about increasing production in this country, something about doing it within our domestic borders.

I am hopeful that in the years to come we will discover new processes, new sources of energy that will power America in the 21st century and relieve our dangerous, expensive dependence on foreign sources of supply. But those breakthroughs will not come this year or next. They are at least a decade away.

One of the most efficient and effective ways to cope with the immediate crisis is increased production of domestic oil and gas. And most of that increased domestic production will be gained through the efforts and risktaking of America's independent producers.

Twenty-five years ago there were 20,000 independent oil and gas producers in this country. With our history of price control, the proliferation of Government redtape and regulation—with the escalating expense and difficulty of finding new energy resources in this country, the ranks of the independents have been depleted. Today their number stands at 12,000.

For a variety of reasons, some of which are not generally known or appreciated, our independent producers constitute a vital energy asset for America.

Year in and year out they drill 90 percent of the wildcat wells in this country.

They find 75 percent of the new oil and gas fields.

They are responsible for 54 percent of new domestic oil and gas discoveries.

I know some of my friends are going to say, "Well, you are talking about an exemption of $25 a barrel that will involve almost $10 million a year."

Let us understand what that means. We are not talking about a mom and pop operation; of course we are not. But mom and pop with a divining rod going out in the back yard trying to find oil is not the way it is done. We are talking about drilling 5,000- to 10,000-foot wells, wells that can cost $1 million or more.

If you are talking about $10 million of gross revenue, and that is what you are talking about—you are not talking about $10 million worth of profits; you are talking about the gross amount including all the costs, all the costs of leasing it out, going out and finding it, drilling the wells, all of those being costs in the $10 million of recovery—then the net is far below that. The figures we had before the committee showed that these folks were spending 105 percent of the oil income that was produced at the wellhead. Of the money they received for the oil produced at the wellhead, they were putting back into the ground 105 percent of it in drilling to find new oil and gas. That is from $10 million worth of gross income.

These independent operators are finding most of the oil and gas which is found within the domestic limits of the United States. They are the real speculators. They are the gamblers. It is not the majors who are finding most of this oil.

These independent producers are the driving force in discovering new energy resources in this country.

In 1978 there were 50,000 wells drilled in America, and independents were credited with 42,000 of them, or 84 percent.

It is clear, Mr. President, that independent producers—not the majors—are the driving force in our efforts to discover new energy resources in this country.

But that is only part of the story. Between 1973 and 1977, total gross wellhead revenues for independent producers came to $33.3 billion. But the same producers, over the same period of time, spend $34.9 billion—105 percent of gross revenues—on drilling, exploration, and production activities.

These are not the fellows who buy department stores or electric motor companies. These are the fellows who are committed to trying to find new oil and gas in this country, and that is what we ought to be trying to encourage. It is important to understand that they are not conglomerates, they are not multinational corporations, they are not concerned with whether their assets are being seized in Iran, because their assets are here. They are employing U.S. employees. They are paying U.S. taxes. They are not involved in refining, transportation, marketing. Finding new oil and gas in this country is their business. That is their sole source of income.

It has been demonstrated beyond any doubt, over an extended period of time, that the independents use their revenues—105 percent of their revenues—to look for more energy.

Our tax laws are written in such a way as virtually to guarantee that this trend will continue into the future.

We really have a very simple choice here. Do we provide incentives for increased production of American energy, or do we instead cripple the ability of our independents to produce by imposing a windfall profit tax on their earnings?

The vast majority of independent producers, Mr. President, are unincorporated. They are liable for a maximum Federal tax of 70 percent on their income; they do not benefit from the 46 percent corporate tax rate.

The unincorporated independent producer who realizes $100 in income from decontrol must pay a State severance tax; he must then pay a 60-percent windfall profit tax, and then he is liable for Federal income tax at the rate of 70 percent. When this orgy of taxation finally runs its course, he is left with a small slice of pie; he is left with very little incentive to invest and produce.

We had Jim Schlesinger before us when he was Secretary of Energy and we asked him that question: If you put all these taxes on, what is left? What does the independent producer have that will make him go out and gamble it all in the hopes that he is going to find that one out of nine that hits? The rest of them are dusters and the one out of nine is the commercial producer that is going to bring greater production. What does he have left that encourages him to do it if we pass this tax? This is what Secretary Schlesinger said before the Finance Committee when he answered this question:

> Undoubtedly any windfall profits tax will to some extent dampen incentives. I think your questions about the independents are well taken.
>
> They do drill 90 percent of the wells. One of the characteristics of this act is that it does bear more heavily on unincorporated independents than it does on either incorporated independents or on major oil companies. In that they are subject to the 70-percent tax rate as opposed to the 46-percent corporate tax rate. As a consequence of which, for such an unincorporated independent, instead of getting an additional 20 cents at the margin.

And that is 20 cents if he hits. He continues:

> He may be getting something on the order of 7 or 8 cents which is indeed, dampened incentives.

That is what he will have left for taking the gamble, for betting the farm that he is going to be able to find new oil and gas.

Mr. President, when it comes to increased domestic production, I do not think this Nation can afford to dampen the incentives. I think we must increase them. I think we have an obligation to produce every drop of oil we can in this country, and if anyone doubts that assertion, they might consider the situation in Iran. Every dollar we take from the independents in a windfall profits tax is 1 dollar that will not be devoted to exploration and drilling in America. That is why this amendment is so vitally important.

It may be argued, Mr. President, that since any oil found in the future by independents will be "new" oil, exempt from the windfall profits tax, there is no reason to provide an additional exemption for the first 1,000 barrels of daily production. Because we have already exempted "new" oil, why exempt the first 1,000 barrels of production.

There is a reason for this exemption, a compelling reason. It is called capital formation. You do not find new oil on a shoestring.

How many banks do you think will finance a wildcat well? Frankly, I have not found one. So how are you going to finance wildcats? How are you going to get the new production? The only way you are going to do it is out of cash flow. The only way you can do it is out of your current production. If you stick this kind of tax on them, the outfit is going to have that much less to put back in the ground.

We are not talking about a mom and pop operation, because they are not the ones who go out and explore for oil today. They cannot pay the thousands of dollars a day that they have to pay now for a rig. They do not have the assets to take the risks that are inherent in oil and gas discovery. And you had sure better not underestimate those kinds of risks.

We are always hearing about the fellow who hit when it comes to oil. That is the one we are talking about, the big winner. He is the big hitter. That is the way we typify the oil industry.

It is a little like that fellow that hits the daily double at the racetrack. That is the one where you turn to the sports page and there it is, the daily double today paid such and such. That is a record. But they do not tell anything about all those tornup ticket stubs that are all over the pavement out there from the fellows who did not win.

That is the way it is in the oil business. How many people have come into that business because they were going to find the mother lode, and all of a sudden they were going to be rich; and all of a sudden they were broke? That is most of them, time and time again.

Why, 25 years ago, did we have over 20,000 of these folks and now, 25 years later, less than 12,000?

(Mr. TSONGAS assumed the chair.)

Mr. LONG. Will the Senator yield at that point?

Mr. BENTSEN. I am delighted to yield to my distinguished chairman without losing the floor.

Mr. LONG. I know it is folklore in the business, but was it not a small independent in Texas who discovered the East Texas field, which at that time was the largest field ever found in North America?

Mr. BENTSEN. That is correct. It sure was.

Mr. LONG. My impression is that that particular independent would sell a little interest in his well to a waitress in a cafe, or wherever he happened to be, to try to do more drilling.

Mr. BENTSEN. He sure was not able to borrow the money from the bank. The Senator is absolutely right.

He is the same fellow who went right back in and, as I recall the story, lost it all trying to find some more. That is the nature of this kind of operation.

We have found all the easy oil in America, all the huge reservoirs and shallow deposits. There are still billions of barrels of oil available, but it is harder and more expensive to find than at any time in our history.

So, what are we doing now? We are finding the independent is going in and he is going for the small target. The big majors say, "With our overhead, we just cannot do that; we cannot afford that. Our costs are too high." But with low overhead, with proper administration, he can go in and go for that small target. And he ends up collectively, when you put it all together, finding and bringing into production a lot more oil than the majors bring in within the domestic limits of the United States.

We have to keep doing that. It means that the risks are longer. It also means that the rewards, they hope, will not be penalized by an excessive tax.

In the future, we shall have to drill deeper for our oil. We shall have to explore in hostile environments. We shall develop areas that have previously been overlooked or considered too difficult or too expensive to drill.

We will need new technology and equipment to bring this oil to the surface. The costs and the risks will increase geometrically, but we need that oil. We need it desperately, and it is clearly in our interest to provide the incentives, the resources, and the capital to enable our independent producers to go out, take the risks, and make the investments necessary to find it.

I was listening the other day to talk about oil companies going into other types of investments and pillorying some of them for going into other types of investments. What do you think is going to happen if you put the tax so high on the independent that, as Jim Schlesinger says, when you get all through with the State taxes, severance taxes, and other taxes, he finally only has 7 percent left out of the dollar? Do you think he is going to drill? No, he is not going to drill. He is going to divert his income into other sources of investment.

Seven percent. He can put it in Government bonds that will pay him more than that, and debentures. He can put it into CD's that will pay him 14 percent today. There is nothing that compels him to put it back in the ground if the risks and the rewards no longer correlate. And when you get it down to 7 percent, they do not. No reasonable man is going to take those kinds of risks.

Mr. President, we are not going to solve our energy problems through increased domestic production, but we can certainly help relieve them. We can gradually replace Iranian production, and we can show the world that America is serious about developing its energy assets, if we pass an amendment such as this.

Mr. President, despite the obvious imperative for increased domestic energy production and the key role played by independent producers in that process, some will oppose this amendment, I know, on the grounds of purported revenue loss. The best estimate I have seen is that this proposal will result in a net revenue loss of $9.9 billion over the next decade.

Even if that figure happens to be correct, if you balance that off against a billion more barrels of oil found, that sure is a cheap investment. That means that we do that much more toward lessening the amount of oil that is coming in and try to help on the balance of trade, try to help on the strengthening of the dollar.

But is this $9.9 billion a windfall for the independent producers? No, it is not. It is a windfall for the United States of America because that money—and more—will be plowed right back into activities that will yield new production of American energy; millions of barrels of domestic oil, billions of cubic feet of gas that would not be available without additional capital to finance new exploration by the independents.

When it comes to the search for energy resources in this country, we do not have to create a new Government department to show us the way. We have 12,000 independent producers ready, willing, and able to do the job. Money invested in the search for new domestic oil and gas is a sound investment in our energy future, especially in the short run. It will yield twice as much energy as a dollar invested in synthetic fuels.

Our independent producers have a proven track record of effective exploration and technological innovation. All they need is the resources, the capital, to do the job, and this amendment will help provide it.

One other point, Mr. President. We can all agree that there is a great deal of resentment in this country directed against the major producers—the so-called Seven Sisters.

I think they do about the worst public relations job of any outfit I know. That kind of resentment is aimed at the so-called Seven Sisters.

It has become fashionable to talk about how the majors have a hammerlock on our energy assets. Well, that is not true at all. The majors have some serious competition, and they have it in the finding of new oil in this country, and that is from the independent producers.

It is true, as was stated here the other day, the majors do not put all their money back in finding new oil, in new exploration. But, again, the testimony and the evidence we had before us in the committee is that the independent does. Once again, 105 percent of what he generates in the well here. It is a trend that leads to greater self-sufficiency for America.

I think it goes a long way toward working toward energy self-sufficiency in this country if we encourage that independent. It is a trend we ought to encourage by exempting from this tax the first 1,000 barrels of daily production by an independent producer.

Mr. President, I urge the adoption of this amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, my friend and colleague, the distinguished and able Senator from Texas, has made the case for this matter forcefully to the whole of the Senate, just as he did forcefully and well and with great conviction to the Committee on Finance itself.

He will not be surprised, or I hope disappointed, because that would trouble me if he were, to know that I have not been persuaded by his observations any more than was the majority of the committee, or any more than I anticipate will be the Senate itself.

The matter comes to a simple definition of our purpose in this legislation, which is to encourage the production of new energy, oil primarily, to provide funds for the development of new

sources of energy, to provide funds to distribute more equitably the huge increases in energy costs which are coming about in consequence of decontrol and of a world monopoly which seems to have no limits in its capacity to extract wealth from our consumers and our economy.

Mr. President, there is a first fact to be made. I wish to identify on the floor who is the author of the existing exemption for the first 1,000 barrels per day of stripper oil production.

The author of the existing exemption is the distinguished Senator from Texas who knows this industry, who knows its people, who knows its terrain, who knows its psychology, because it is an industry in which psychology is obviously more than normally important.

The Senator from Texas was able in the Finance Committee to provide an exemption for the first 1,000 barrels per day of stripper oil production. A stripper oil well, Mr. President, is one which produces only 10 or fewer barrels of oil per day.

The Senator from Texas, ably assisted by others, including, if I am not mistaken, our new colleague and friend from Oklahoma, persuaded us—not all members of the committee, but the majority—to include this exemption, a $16.2 billion exemption—$16.2 billion.

In order that we should not get too accustomed to these numbers, Mr. President, I would like to say here as a small point of history, a billion minutes ago Cleopatra was on the Nile.

The Senator from Texas feels very strongly about this exemption. Others might feel just as strongly in the other direction. It is a judgment.

The committee majority made the judgment that an exemption for stripper oil production was defensible in terms of the threefold purposes of this bill.

It is arguable that the exemption makes a stripper oil well a valuable property because if we have one of these wells that produces eight barrels a day, we get 992 barrels exempt from some gushers we may have brought in on the north shore.

But the capacity of the Federal Government to create wealth is wonderful. Some say that they cannot create wealth. They are wrong.

In my city of New York, if we have a particularly noxious foundry and want a right to exhaust the foundry's filth into the air, and someone comes along who wants to put up a larger, more efficient plant, he has to find someone who will sell him the right to dump that much stuff into the air. The Federal Government has, by legislation, created a value in smog.

Here is an otherwise unproductive stripper well that produces eight barrels a day. If we can get one of those, we can exempt the other 992 from vast cornucopia that appeared in Wyoming as an unanticipated offshoot of cattle ranching.

So the stripper wells will be pretty valuable now, and lucky the Senators who represent their interests so well and ably.

But, Mr. President, there surely are limits. The Finance Committee bill has not been advertised as a bill of excessive severity with respect to the producers of petroleum. No one has described it as punitive in nature.

The Senator from Wyoming is disposed to think it is such. But his basic warm disposition prevents him from saying this. The sense of the importance of his own credibility was very high in this Chamber. He would not want to jeopardize it—I hope he would not.

In any event, there are not many outside this Chamber who think this is an excessively severe bill.

The Bentsen amendment would give $9 billion of altogether unanticipated windfall to property owners who are now earning money from oil being pumped from the ground.

I am sure there are producers who have searched for oil unsuccessfully who are out of business. They will not benefit from this bill. They are out of business. The people who benefit from this amendment are people who are in business and doing very well.

The Senator from Louisiana, with his nice sense of the specific, the person, the place against the abstract, recalled the old wildcatter who brought in the east Texas field and sold it all to his waitresses. Then what was left over, he lost looking for a west Texas field. One shares that drama of American enterprise and discovery. I can give him a similar story, even more heart wrenching.

On an occasion some years ago, I had the great honor to be inducted into the American Philosophical Society which was founded by Benjamin Franklin in 1754. There are 500 members in the American Philosophical Society. It was founded for the advancement of useful knowledge. That is what Franklin had in mind. Jefferson was our president for many years.

At the banquet at which the new members were being inducted, I found myself sitting next to a mild-looking gentleman, a man obviously of intellectual bent and academic pursuit, with no visible signs of worldly splendor whatever.

Respectfully, as becomes a new member, I inquired of his profession. He said he was a geologist. I said: "That field always fascinated me. What has your specialty been?"

From across the table, his wife, in a rather loud voice, said, "Tell him what you did, George."

He said in an equally quiet voice, "I found the Arabian oil fields."

He did not even sell it to waitresses. He just wrote it up in the Journal of American Geology and may have gotten to be an associate professor, at $9,000 a year, in consequence.

So the world is full of discovery, and we should encourage it. But this oil has been discovered; this oil is already there. People are making money out of it today, and they will make a lot more money out of it tomorrow.

There is no need for this amendment. It will not produce an extra barrel of oil. It does not meet the criteria of this bill, which are threefold: We want to produce more oil. We want to find funds for producing new forms of energy. We want to find funds for easing the high cost of energy on the low-income persons in this country.

The amendment fails on all three scores. It will not add any oil. It will reduce revenues. On top of a $16.2 billion exemption, it will add another $9 billion.

I can understand the argument by the Senator from Texas—made with such great force that something no one thought was doable was done by him in exempting stripper oil wells. He now, I think, goes beyond even his capacity for persuasion, and that suggests the verge of incredulity.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. BENTSEN. I say to my distinguished friend that I appreciate his giving me authorship of the stripper aspect. I am sure that the stripper has one connotation on 45th Street and quite a different one in Texas.

Mr. MOYNIHAN. Forty-second Street. [Laughter.]

Mr. BENTSEN. Forty-second Street.

However, I think the Senator from Kansas really deserves that distinction. I was happy to participate and assist him in that regard.

There are quite a number of cosponsors of this amendment, people who share the belief that this would increase production substantially in the country, and I would like to list them at this time. They are the following Senators: BAUCUS, BAKER, BOREN, BOSCHWITZ, COCHRAN, DOMENICI, FORD, HART, HATCH, HAYAKAWA, HELMS, HUMPHREY, JOHNSTON, KASSEBAUM, LAXALT, LUGAR, PRESSLER, RIEGLE, SCHMITT, SIMPSON, TOWER, ZORINSKY, YOUNG, and WALLOP.

We will be very delighted to have any additional cosponsors who want to sign the amendment.

Mr. MOYNIHAN. Mr. President, will the Senator yield for an observation?

Mr. BENTSEN. I yield.

Mr. MOYNIHAN. I would be delighted to see more cosponsors, as well, because it would mean there were more States with oil in them. [Laughter.]

Mr. BENTSEN. I say to my good friend that in this kind of situation, I suppose it has to be as it is with my friend because of the makeup of his State, with a substantial amount of experience in certain fields, that these people, who in general are from oil-producing States, do have a substantial amount of experience.

Mr. MOYNIHAN. A good point.

Mr. BENTSEN. Since the debate we had in the Finance Committee, we have had some major changes, and we have seen what has happened in Iran. We have seen how fragile and uncertain the situation is and the lack of stability with respect to the oil supply from the Middle East.

That emphasizes, once more, how important it is that we increase production in this country. That is why I have been

working to gain some additional support for this amendment.

I say to the Senator from New York that when he was talking about the amount of production for strippers, the average number of barrels for a stripper well is more on the order of 2.9 barrels a day.

Also, when we are talking about what this independent exemption would provide, we are talking about their plowing back some $10.4 billion into the search for additional production. That would bring about the drilling of an additional 15,200 wells.

When I was talking about a billion additional barrels of oil, I was relating that to the 10 years. If you run the string out until you develop all that oil and deplete those reservoirs, you are talking about finding for this country an additional 1.7 billion barrels, not just the billion barrels. You are talking about a productive capacity, in addition, by the year 1987 of some 300,000 barrels a day. So it is a very substantial increase in production that results from this.

Mr. MOYNIHAN. Mr. President, I wish to correct a mistake I made, which the Senator from Texas, in his characteristically generous way, pointed out when he need not have done so.

I suggested that the exemption for stripper wells in the bill before the committee, a thousand barrels per day, was his work, and I am properly corrected in that matter. The particular measure which was agreed to was the work of the Senator from Kansas, the able and distinguished ranking minority member of the committee, who has done much to bring this measure forward. As a matter of fact, as it might be useful, the Senator from Texas introduced a 3,000 barrel exemption, which did not succeed. The Senator from Oklahoma wished to exempt production, which did not succeed. It was the Senator from Kansas who introduced the successful measure, moderate by that which had preceded it, but excessive in the view of a minority of the committee.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. RIBICOFF. I think it should be pointed out that those of us from the consumer States worked and voted for an exemption from the windfall profit tax on newly discovered oil and tertiary oil. Is that not correct?

Mr. MOYNIHAN. I believe that is exactly the case.

Mr. RIBICOFF. And I believe that only one member of the Finance Committee voted "no."

Mr. MOYNIHAN. I think that is exactly the case.

Mr. RIBICOFF. Yet, this was a position that was basically different from the positions many of us had taken in the past in considering legislation involving tax problems and tax consequences in the whole field of energy. Is that not correct?

Mr. MOYNIHAN. The Senator is correct.

Mr. RIBICOFF. Philosophically, we did so because we felt, basically, that what we were dealing with was not a tax bill but an energy bill and that the tax consequences were incidental, because we wanted to make sure that we did everything possible to develop new oil and new energy in the United States.

What bothers me is that when we talk about independents, the proponents give the impression that we are talking about the small companies who are scratching out a living from the soil: In the backyard, mom and pop have a well and they are getting three or five barrels.

Mr. MOYNIHAN. Two point nine.

Mr. RIBICOFF. Two point nine barrels of oil a day.

However, I point out that when talking about independents, we really are talking about big business. We are not talking about small business.

Let me list some of the 71 independents who really are producing on a nonintegrated basis.

Let us start out with the Superior Oil Co., in the first half of 1979, $88.9 million. Their percent of change was 95 percent, and their profits for the first quarter of 1979 were $48.6 million and from 1978 plus 11 percent.

Then we go to Louisiana Land Exploration Co. Their percent of change from 1978 was 75 percent and their first quarter was $53.5 million, 95 percent. There are Texas Oil and Gas Corp., Enserch Corp., Freeport Minerals Co., Natomas Co., Tesoro Petroleum Corp., Napco Inc., Belco Petroleum Corp. Mesa Petroleum Co., Helmerich and Payne, Inc., Southland Royalty Co., and so forth.

I go all the way down the line and we find for a total net profits, percent of change from 1978, 44 percent and the first quarter of 1978 in millions of dollars $419 million and the percent of change from 1978 is 88 percent.

So we are not talking about a situation where we are dealing with a group of companies that have made an awful lot of money.

I cast no reflection on the advocates of these proposals because they are dedicated, sincere men. But I do not find that they have taken the same point of view as the Senator from New York, the Senator from Connecticut, and the Senator from New Jersey took in the Finance Committee. We were willing to forego what we considered a regional break for the people who consumed, but I have not found a correlative yielding from the regional producers of oil when we look at the national interest because there is a national interest involved and that is getting more production. I am willing to forego any tax break for anyone in the State of Connecticut if it will get more production. It does not concern me that the oil producers are making a heavier profit if they will produce more energy and more production. We have taken very good care in this Congress and in this country of the independent.

Let me give the Senator an example of the breaks that we have given to the independent producer, and they are not bereft. The independent producer already receives a number of substantial special tax benefits. The independent still is allowed to use a percentage depletion allowance to reduce his taxable income. The tax benefit for percentage depletion on oil for 1980 is estimated to equal $1.2 billion of which $700 million is attributable to the independent producer. He is allowed to write off his intangible drilling costs in 1 year rather than capitalizing them over the life of the investment, a benefit estimated to reduce tax liabilities by somewhat over $2 billion in 1980. We give them all this extra break.

How much are the so-called independent producers—and they are not little mom and pop, they are big companies—entitled to? If we in the consuming areas of the country are willing to forego a benefit for ourselves, I think the time has come to expect those people in the regions that produce oil not to be pushing for the last dime and they have got an obligation to be concerned with the national interest. And the profits will be large enough that they will receive in the production of newly discovered oil or tertiary oil.

We have made it very clear and when amendments are brought out on the floor to take away or to tax new production or tertiary, I will vote against that position because I think the production of that new oil is essential. But we are going to have to do so much that I think the time has come that we should expect the so-called independents to do their fair share. And they are not little mom and pop operations. They generate a sufficient amount of oil, sufficient amount of capital, and a sufficient amount of profits. What determines the additional capital flow with the so-called large independents are the profits they will make. I do not think there is any question.

We started off in the Finance Committee talking about the price of oil being on the basis of $18 or $19 a barrel. While the measure was being marked up, it went to $23. There is no question in any of our minds that it is $30 a barrel. It is going to go up to $40 a barrel and I predict that in a year it will be $50 a barrel. I do not think that the regional producers of oil should hold the people of this country enthralled. I think they have an obligation to do as much for this country and not squeeze the last bit of profit out of their production and say to the United States "We are doing you a favor." They are not doing a favor at all and as the price of world oil goes up, they are going to be the beneficiary of it. I do not think they should squeeze the American consumer because as the price is going up we are paying over $1 a gallon for gasoline. It is going up to $1.25 and $1.50. Within a year or two, it will be $2 a gallon.

If we are going to have a sense of equity or a sense of fairness in this country with the problems that we face, I think the time has come for the people in other sections of the country producing oil to do their share and not expect the burden to be borne by everyone else in the country except them. It is not a burden. It is a question of making really excess profits that are beyond what this country is gagging over because to do so will be a situation that will be almost tragic by setting up one group of people over the others.

I had thought that over the years the

oil companies had learned a lesson. And the one thing that I have found in 40 years in politics is that there is a sense of fairness in the people of this country. Once they feel that a segment of our society or economy is greedy and grabbing for more than their fair share, they have their way of retaliating.

I have not agreed with the President in his attacks on oil companies. I do not agree with many of my liberal colleagues who want to deprive the oil companies of enlarging, integrating, and going into alternate sources of energy because they are in the oil business. Sure they are greedy, but I think what we are up against is this: We are up against OPEC that is greedy and we are up against the American oil companies that are greedy.

Basically, we are not going to win from the consumer standpoint. I would rather keep the dollars in the United States of America. I would rather have production in this country where we have control of any type of energy. I am willing to encourage anyone who can produce energy. But I think we are entitled to a sense of fairness.

I hope that before we are through with this measure we can have the cooperation of the distinguished chairman of this committee and the distinguished Senator from Texas who are dedicated to their Nation, know the oil business, and know what is right and what is wrong to give them a fair return and a fair profit but not to squeeze down the American people because what will happen is this:

If they do so—and even if they prevail—I think their position will be rejected in the House of Representatives and in the conference and we will throw into the next political campaign one basic issue. It will be the American people against the oil companies of America. And there could be no graver disservice in this type of American travail and American leadership to have the political campaign in 1980 run against the oil companies of America because the whole country will be the loser. But if those people who come from the regions that produce oil insist and prevail that they are going to get every break and the consumer is going to be the loser in the long run, they will be the loser as they will set up obloquy by the voters of this country, and I hate to see the next political campaign run against the oil companies of America.

Mr. MOYNIHAN. Mr. President, I hope that the words of the Senator from Connecticut were heard and absorbed. Those were the words of a statesman. Those were the words of a man with no political ambitions, nothing. Everything a man could do, he did. He is a man who led the consumer groups in our committee speaking wisdom, prudence, and to the true purposes of this legislation.

May I say, to remind the Senator—he was meeting with the Vice President when we first spoke to the point—this provision will not produce another barrel of oil, not one barrel. Every bit of this oil has been discovered and is being pumped now.

Another point the Senator would be interested to know, and I am sure he does know, is that almost one-third of the $9 billion exemption here will go to persons who merely have a royalty interest in these wells, are not in the business of discovering oil and producing it at all. They do not bear the costs of production or development. This amendment was rejected, in part, in the Finance Committee, and I hope it will be rejected on the floor.

Does the Senator from Connecticut want to make a further point?

Mr. RIBICOFF. No. All I plead for is a sense of fairness and a concern for what is happening in the world today.

I do believe that the President has failed to really take advantage of the problems with Iran. I think what I find is a lack of urgency in conservation, with the failure and the refusal either from Iran or ourselves to not take 800,000 barrels of Iranian oil a day—what a great opportunity there is to make a commitment that we conserve 800,000 barrels of oil a day and not try to find a substitute for the 800,000 barrels a day in the spot market, which will put the price up.

Mr. MOYNIHAN. The price at Rotterdam.

Mr. RIBICOFF. There are conservation measures that are of such grave urgency that I find in a week in the State of Connecticut the people of all walks of life are willing to march in tandem to achieve this. Whether we can do this in this bill I do not know.

I suggested to the Vice President and suggested to Mr. Sawhill in the Vice President's office a few minutes ago that they should get together with the distinguished Senator from New Jersey (Mr. BRADLEY) who came through with a proposal that the Finance Committee adopted, and it could be achieved to a greater extent.

Last week Mr. Freeman, head of TVA, testified before the Governmental Affairs Committee, and for the first time I learned that TVA had instituted a program of conservation within their jurisdiction.

TVA makes available to every homeowner their inspectors to inspect the individual premises and to make an inventory of what has to be done to save energy in that particular home.

Then they have a list of certified contractors who do good work and are legitimate, and a contractor comes in and bids as to the price for doing that work.

The Tennessee Valley Authority then lends money interest-free to the homeowner to retrofit. Then, after the work is done, that work is inspected to make sure it is proper, and after the inspection is made and the work is proper the contractor gets paid.

Mr. Freeman says they have retrofitted 150,000 homes in the Tennessee Valley Authority jurisdiction.

Both Mr. Yergin of Harvard and Mr. Freeman contend—and I brought them together with Mr. Sawhill, who confirms their finding—that if all the utilities in America undertook the TVA approach we would be able to save by conservation a million barrels of oil a day. This is the type of objective we should have, and I hope that Senator BRADLEY and the Energy Department can find a way within the jurisdiction of this bill to come up with a proposal to save that million barrels of oil a day.

Senator BRADLEY will be studying this in the next 24 hours to see if he cannot amend his proposal, that was adopted by the Finance Committee, and eliminate the independent corporation and the redtape, and we can involve the Governors of all the States working with the utilities of the States and, of course, the other utilities do not have the capital resources of TVA. But there is enough money, believe me, in the windfall profits tax fund to guarantee to the utility companies of this country the TVA approach. That is what I hope we can achieve, and that is the objective.

I hope we can agree to fight off these amendments which seem to be a grab for special favors for one group of our society as against the other; and also to join with those Senators from the oil-producing States to keep free the new oil and the tertiary oil, keep them from being subject to tax. I am willing to help to that extent, but I hope correlatively that we can have the same cooperation from the Senators of the oil-producing States.

Mr. MOYNIHAN. I certainly second the Senator's remarks.

Mr. BENTSEN. Perhaps, Mr. President, I can answer some of the comments that were made.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I do not think there is anybody in the Senate I have more respect for or admiration for than the Senator from Connecticut. He is a distinguished public servant. He is a man who has the national interest at heart. He does not have a monopoly on national interest, however. There are lots of us who think we have that.

I do not think it is limited to consumer States or to some of the producer States. I have got a lot more consumers than I have producers in Texas, and I try to represent all of them. I also try to work for the national interest.

If my friend from Connecticut had heard what I had to say before he came in, I went to great lengths to say that these were not mom and pop operations. I said they were not, and I said it repeatedly. I said it was not somebody with a divining rod coming out of the garage, working in the backyard and finding oil and gas these days. It is a sophisticated operation. It is high technology. We are talking about $10 million a year of income to these people, but we are not talking about profits. We are talking about gross income, we are talking about gross revenue, and that is what we have limited it to.

My friend from Connecticut has supported an exemption for tertiary and heavy oil and he is right in that. I happen to think he is wrong in this one because I do not think he fully understands how the independent operates in this country, and the fact that he cannot finance these wildcats at the bank, that he has to do it out of his cash flow, and out of that 1,000 barrels that are coming in he has to find the money to bring about the production. He can

choose the Superior Oil and the Louisiana Oil and Gas, but that is not whom I am concerned about. I am concerned about 12,000 independents in this country, that used to be 20,000 independents. I am concerned about 12,000 independents that are finding most of the oil and gas in this country today.

No, I do not think they are doing it as a favor to anyone. I think they are doing it because they think it is a sound business speculation, that the risk-reward ratios are there; but they are not there if you cut that down to 7 percent. They are not going to go out there—I do not care how charitable they might be—and invest their funds and put them back in the ground to bring in a wildcat with the odds so very much against them if the return, as Secretary Schlesinger says, after you get through with your severance taxes and all the rest of it, is 7 percent.

It does not make any sense. So they are going to spend their money elsewhere. They are going to do other things, and we are going to have $9.9 billion not spent on additional production in this country. It means the 7 percent return that Secretary Schlesinger said they would have is not going to be adequate.

So it is not a question of doing anyone a favor. It is a question of making prudent investments that will give a reasonable return. If the return is 7 percent to go to a wildcat, if this tax is put into effect, Secretary Schlesinger said, it can be that minimal, then they might as well go put it into a CD at 14 percent or they might as well invest it in apartments or something else.

Wisdom and prudence would dictate that. Again, it is not a question of favoritism or trying to favor someone; it is a question of what is in the national interest. The estimates are that this would bring on 1 billion barrels in that 10 years, and the estimates are it would cost less than $10 a barrel to produce. That is a very good investment in the national interest of the people of this country, and I hope very much that the Senate will adopt this amendment.

Mr. DOLE. Mr. President, first of all, I wish to express my appreciation to everyone who has spoken today. It indicates the degree of unanimity we had in the Senate Finance Committee on some of the very major areas. Certainly, as has been stated by the distinguished Senator from New York and the distinguished Senator from Connecticut, in some areas we had agreement, and we are going to have agreement on tertiary and newly discovered oil. There is no inclination to tax newly discovered oil, tertiary, or heavy oil. I do not recall any significant opposition to the recommendation of President Carter to tax heavy oil.

In any event, I certainly want to express my thanks to the Senator from Connecticut and the Senator from New York for their help. We did not always agree, and we probably do not agree on the amendment before us. I have the highest regard for the Senator from Connecticut and the Senator from New York. I also have a high regard for the Senator from Texas. Maybe we are biased, since we have a little, though not much, oil production in Kansas. We produce about half as much oil as New York produces milk, and we are not suggesting any windfall profit tax on that.

Mr. MOYNIHAN. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. Yes.

Mr. MOYNIHAN. As an indication of national perspective, the State of New York does produce oil. The city of Olean is noted for its field that came in around 1857. The only fault I have ever found with the citizens of Olean is that they started producing oil in 1857 and stopped in 1858.

Mr. DOLE. That is correct. I have just discovered that there are 4,819 stripper wells in the State of New York, that produce about 813,000 barrels of oil. The average well produces about half a barrel per well per day.

Mr. MOYNIHAN. The Senator from New York would have been well advised not to make that intervention.

Mr. DOLE. I will take only a few moments. It seems to me it is a very close question. The word "greed" has been used. The question is, Where do we draw the line? As the Senator from Arkansas said this morning, when is enough is enough? I suggest there has to be a trade-off. There has to be a balance. It seems to me that for the most part that balance was found by the Senate Finance Committee.

The history of the so-called exemption for independents, I think, was initiated, as the Senator from New York correctly stated, by the Senator from Texas (Mr. BENTSEN). There were a total of three amendments offered on October 2, and they have been properly identified.

It was the feeling of the committee that 3,000 barrels a day was too much, and that effort was rejected. It was the feeling of the committee it was not appropriate to exempt all stripper production, and that amendment was rejected. But at the same time, there was a majority of the committee who felt there was a middle ground between the amendment of the Senator from Oklahoma (Mr. BOREN) and the amendment of the Senator from Texas (Mr. BENTSEN). The committee finally settled on my amendment at 1,000 barrels per day of stripper oil produced by independents. It passed by 11 to 7 votes, with two members not voting.

I support the efforts of the Senator from Texas. By oversight, I have not been made a cosponsor of that amendment.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BRADLEY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. I would like to be made a cosponsor of the amendment, and I so request.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the name of the Senator from Kansas and the Senator from Montana (Mr. MELCHER) be listed as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I note that my colleague, Senator KASSEBAUM, was an original cosponsor.

We have gone through this a number of times in the Finance Committee. I am not certain whether it will produce a billion barrels or more or less than that figure. We saw very early that the production response figures depend on where the figures come from. I think we finally agreed in the committee that it was impossible to reach any firm conclusion about the production response. The Congressional Budget Office figures or the API figures or Department of Energy figures, or administration figures from some other source, or Citibank or Chase Manhattan, are all a bit different. It was the general consensus that independents put their money back into more exploration and more production, and I think that was at least the genesis of the Bentsen effort, the Boren effort, the Dole effort, and other efforts in the committee to look at the taxation of independents. Independent oil producers have accounted for about 90 percent of wildcat drilling and about 80 percent of all domestic drilling. They find slightly more than 50 percent of new reserves.

These ratios were confirmed by a study made by the American Association of Petroleum Geologists for the years 1969 to 1973.

We need to do everything possible to produce domestic sources of oil and gas. The independent exemption from the tax will reduce the disincentive created by the so-called windfall profit tax.

I listened with interest to the Senator from Texas who elaborated on the successes and failures of independents. He is correct—there are a great many more failures than successes, but we never talk about those failures, and we do not talk about the losses. As the Senator from Kansas inserted in the RECORD today, there has been an increase in production costs of over 200 percent in certain areas of Texas in the cost per foot and a 200-percent increase in my own State of Kansas in the cost per foot to drill. These are facts that we tend to overlook. We talk about profits, but we do not talk about cost, expenses, cash flow, or reinvestment. This is the area that is being addressed by the pending amendment.

In 1956 the over 90 percent of gross wellhead revenues was reinvested. During the period from 1973 to 1977 the reinvestment was in excess of 100 percent of gross revenues in both crude oil and natural gas.

We had testimony before the Finance Committee, which according to my recollection is uncontroverted; that independents are reinvesting their profits, trying to find more energy, and that is the purpose of this incentive.

Independent producers have only one primary source of income, and that is the wellhead sale of oil and natural gas. They have no other source of income. They have to go out and attract investors, and they have only one primary

method of utilization of their funds. That is through reinvestment in exploration and production.

Finally, with reference to the independent exemption, the Senator from New York stated that we are not going to produce one more barrel of oil with this exemption. I guess, from a narrow interpretation, he may be correct.

On the other hand, if we exempt a thousand barrels a day, we do provide more cash, more cash flow, more exploration, more production, more American jobs, more money spent in this country, and less reliance on the likes of Khomeini, who, as indicated by the Senator from Maryland, lacks something.

I do not know of anyone in this Chamber, or any place in the country, or the world, for that matter, who knows with any degree of certainty what the potential oil and gas reserves may be. There has been a lot of speculation on the floor, a lot of speculation in the committee, a lot of speculation in the administration, and a lot of speculation in the oil companies. No one knows.

But I suggest that somewhere out there may be a new oilfield that is larger than the last discovery in the State of Alaska. But you have to have money. You have to pour money, and pour money, and pour money into a lot of failures in the oil industry that no one ever really focuses on.

And they are not all mom and pop operations, as the Senator from Connecticut (Mr. RIBICOFF) correctly pointed out. But where they are, they are taxed as individuals and not corporations and, therefore, taxed at the 70-percent marginal rate rather than the 46-percent corporate rate. Hence the independents are much more severely impacted by any crude oil excise tax.

I would hope for an extension of the spirit that prevailed in our committee deliberations, we must look for more production, not some way to punish the oil industry. Some may feel they deserve it, and they may deserve it to some extent. But notwithstanding that, as the Senator from Connecticut (Mr. RIBICOFF) pointed out, and I think every other Senator who has spoken, our primary responsibility, not as Republicans or Democrats or from producing or nonproducing States, is to find some way to increase production.

There are some precedents for the thousand barrel a day figure, because that is where the depletion allowance is going to level out in 1980. It is going to become permanent. You can claim depletion on a thousand barrels. Depletion has gone down. It was 2,000 barrels a day in 1975. It went down to 1,800 in 1976; 1,600 in 1977; 1,400 in 1978; 1,200 in 1979; and in 1980 it goes to a thousand a day.

There should be some preferential treatment, not so they can make a profit, but so they can use those profits, as they have demonstrated time after time, to pour money back into exploration and production that would increase the energy supply, which would benefit American consumers and, hopefully, lessen the costs and lessen our dependence on the Khomeini's of the world. Who else may be lurking around that we are not aware of? And what could happen next week or next month that would make action on this bill and this amendment very important?

I would close by suggesting, in the proper spirit, that whatever happens on this amendment, I believe the Senate, as indicated earlier today by a vote of 50 to 32, is not about to adopt blindly the House version; that there is a great deal of wisdom in the Senate Finance Committee and the Senate itself; that we understand our obligation in this body; and that we have done a good job as far as raising revenue—$138 billion over 10 years is a pretty good sum of money—and that we are attempting, through our efforts in the Senate, to increase production.

We have provided tax incentives for conservation through the efforts of Senator PACKWOOD and many others on the committee. We have also addressed the low-income assistance program through the efforts of Senators on both sides of the aisle.

We have also addressed the problem of mass transit and minimizing the impact of increased social security payroll taxes. We have addressed, I might add, the tax credit for increases in the cost of home heating oil and propane. It is a comprehensive piece of legislation that took about 3 or 4 months—I am not certain of the exact number of days—to put together.

It is my hope that we would adopt the Bentsen amendment. It is a compromise for the Senator from Texas (Mr. BENTSEN). Originally, I think, the amendment was for a 3,000-barrel/day exemption. It seems to me that this does not do violence to the revenues. We are talking about $9.9 billion spread over a 10-year period. It would have an impact on more production. It would provide more capital. It would mean more wells being drilled. I am not certain of the number of wells drilled last year, but they are going up a little bit. But they have gone down from about 50,000 to a much lower number. So, all in all, it seems to this Senator that this is a step in the right direction.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. Mr. President, I will make a few brief points.

The Bentsen amendment would modify the committee substitute by replacing the exemption for stripper oil with one for any taxable oil produced by independent producers, without regard to who controls the property. That means that the royalty owners would be eligible for the exemption on an amount of oil equal to 1,000 barrels per day. So we are not talking about producers, we are talking about passive royalty owners and investors.

The exemption would apply to oil that is subject to price controls currently, and, furthermore, the amendment would reduce the revenue estimated to be raised by this bill by $9.042 billion between the years 1980 and 1990.

It would seem to me that the Bentsen amendment should not be agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I compliment the author of the amendment and the floor manager of the bill at the moment, the Senator from New York, the Senator from Connecticut, and the Senator from Texas, all of whom have presented very well reasoned and logical arguments in connection with this pending amendment.

I commend the Senator from Connecticut for having pointed out so ably the fact that this is not an amendment that helps just the little guy. The language really is very broad because in the Bentsen amendment, referring to section 13 of the Tax Code it defines an independent producer as one who does not have more than $5 million of retail sales or more than 50,000 barrels a day refinery capacity.

There are a lot of companies that are not in the retail business at all and they are very large oil companies. There are a lot of companies that are not in the refining operation, and yet they are very large companies.

This amendment could be considered to have a great deal of merit if in some way at the end of the road we could say, "We pass this amendment and somehow we are going to have a lot of new oil, we are going to produce more oil."

That is the argument because all of us are standing on the floor telling the world how our position is going to be better for our Nation, is going to be better for oil production, is going to be better in some way for the energy problems of this country.

But the fact is, and it has been stated before and it should be repeated, that there is now in the Finance Committee bill an exemption for new oil, an exemption for tertiary production, and an exemption for 1,000 barrels a day of stripper oil. So what are we really saying about this amendment? What we are saying about this amendment, and in all fairness to the Senator from Texas he has explained it well and has set it forth very accurately, is we need this amendment, according to the Senator from Texas, because with this amendment the small producers will be able to accumulate more capital; they are not in a position to go to the banks and they cannot get their money in any other way other than going out and earning it.

Well, somebody did some research on that subject, about the question of the small producers having the ability to borrow capital in contradistinction to the larger ones. The facts do not bear out the point that the smaller producers need more assistance, need more right to these windfall profits, than the larger ones.

The administration has sent over to everybody in the Senate, I believe, a copy of their report on this very point, in which they say:

> Third, it is sometimes contended that small independent oil producers, like small businesses generally, depend more heavily on equity, initial investments by owners, and retained earnings to finance the assets they use in their business and, therefore, ought to be accorded preferential tax treatment. But the evidence of oil companies, like that for other industry categories, does not support this contention. The relationship between size and dependence on equity is generally the reverse.

Mr. President, I think the Senator from Kansas has stated the issue very well. I believe there really is only one issue in this amendment and that is it has to do with, as he put it, more money, more money. I could not agree more. The issue is, are we going to give more money, more money to the oil producers, and when are they going to be satisfied that they have enough? When are we going to have some concern for the American consumer?

The Senator from Kansas talked about there being some way to increase production. I was not able to follow him when he indicated that not all of these producers are corporations and, therefore, some of them may go up to a rate as high as 70 percent. Let me say that the personal individual rate in some instances may go up to as high as 70 percent, and I could not disagree with that point, but I think he is realistic enough to know and I am realistic enough to know and the Members of the Senate are realistic enough to know that that is not the way it is in the real world because the oil producers, small or large, are not paying a 70-percent rate.

This issue is very elementary. We will not get any more production. There will not be any more oil. As a matter of fact, there certainly will not be any more conservation. I could not agree with the distinguished Senator from Connecticut more than I do when I say it is true that the effort to produce mandatory conservation in this country is an important and integral part of any national energy policy.

The Presiding Officer of the Senate at the moment has a good bill on that subject. I am a cosponsor.

The Senator from Connecticut was talking about the question of having an audit made by the TVA. I point out to him that there is now in the law a provision that as of January 1 every public utility in the country will have to make available an audit any time it is requested.

It is a fact that the other night on the floor of the Senate we passed a measure and included in the synthetic fuels bill an amendment that some of us fought for in the Energy Committee requiring a mandatory audit at the time of transfer with respect to real estate transactions in this country.

So there are other ways of achieving conservation in this country. The fact is that the administration and the Congress have been reluctant to take those steps because, with no exception, every time you take one of those steps you step on somebody's toes.

I think this amendment does not step on anybody's toes except the American people. I think this amendment should be defeated and laid to rest. I think we are doing enough for the oil industry without the Bentsen amendment.

Mr. DOMENICI. Might I ask the Senator from Colorado, I do not wish to speak long, but I understand the Senator has time problems?

Mr. HART. The Senator should take however long he needs. I thank the Senator.

Mr. DOMENICI. Will the Chair advise me when I have used 3 minutes?

Mr. MOYNIHAN. Will the Senator yield for an observation?

Mr. DOMENICI. I yield.

Mr. MOYNIHAN. If he needs enough time to justify this amendment, we might be around for a long session and perhaps we should ask the majority leader to make an announcement.

Mr. DOMENICI. Perhaps we can find out about that in just a few minutes.

First I want to say it has been my privilege to join with the Senator from Texas in this amendment and work with him in explaining it to our colleagues. I think everything has been said about the independent oil producers in this country that can be said. I have three more points to stress.

First of all, this Senator has been supporting long-term solutions to America's energy crisis, such as America spending huge amounts of money by way of guarantees and the like to see if we can convert synthetics into usable transportation fuels.

In all of that there is a risk involved. We do not know if it is going to work and we know it is extremely long-term.

The second point: Everybody admits that there are substantial quantities of crude oil left in America but it is going to be extremely expensive and difficult to get it out of the ground so Americans can use it.

The third point: The independents have a history of investing almost every penny that they get from the sale of oil back into development, wildcatting, and the production of oil for America. In fact, the last statistic is 105 percent of what they get, they invest. So with what they get for it, they go out and acquire investors and put more money into the ground to try to find oil.

Given that and given the fact that we are involved in a game of risks today—nothing is certain and nobody can say with certainty that this entire bill before the Senate is good for the United States; there are risks involved in this bill—why do I support the amendment? I support the amendment because 10,000 to 12,000 independent American businessmen are asking that we leave the money in their hands that they get from a freed-up oil market and that we let them go out and use it.

I submit there is more assurance that 10,000 or 12,000 independent businessmen with a history of producing oil, if given the money to go out and find it, will invest and they are apt to be more prudent than we. They are apt to have a program that is better than we can invent. They are just apt to produce oil with the money they will get—12,000 independent decisionmakers who will get the money from the oil and go out and find more. No other source of money, no integrated-type companies; just active businessmen who have a history of taking risks.

I submit we ought to put the risk where it is more apt to benefit America. That is with the independent oil producer. That is where we are apt to benefit from taking a risk. We will not benefit from taking their money and bringing it up here to the U.S. Treasury and making some big decisions on how we are going to cause America, in the short term, to become less dependent.

So it seems to me the issue is not a consumer issue. Somebody talked about consumers a minute ago. I did not know that by taking taxes, we were lowering the price of oil. I think the consumer is going to pay the same price for oil at market value whether we take part of it in taxes or not. So it is not a consumer issue.

In my opinion, it is foolhardy for the United States to let foreign countries get the full dollar and say to our 10,000 to 12,000 independents, "We know how much you can use prudently and we shall use it better than you, so we'll take it away from you and we'll put it in the Federal Treasury to do some great kind of risk-taking, Government style."

So it seems to me the risks are on the side of going with those who actually develop and find and who have a history of investing it for that purpose.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I thank the Chair.

Mr. MOYNIHAN. Mr. President, I shall shortly move to table the measure before us. I make two points before doing so.

First, I confirm what the Senator from Kansas has said with the candor and the straightforwardness that we value him for in this Chamber. He said he could not say how much of an effect upon production this measure would have. Mr. President, he could not say because there will be no effect on production.

This oil has already been discovered. It is in the ground; it is being pumped out. Newly discovered oil is exempt under the Finance Committee bill and that is what matters.

Second, Mr. President, I point out, as to the Senator from Oklahoma, whose measure I shall move to table, his amendment exempting all stripper oil would have a revenue loss of $33 billion. Mr. President, $33 billion. The Senate now must be serious and get about its business in this matter.

● Mr. HART. Mr. President, I support the amendment by Senator BENTSEN to exempt small independent producers from the windfall profit tax. Senator BENTSEN'S amendment would exempt producers who produce no more than 1,000 barrels a day from this tax proposal.

In general, I support the windfall profit tax on old oil because it will return to the taxpayers through Federal programs or tax cuts part of the money they spend on higher oil prices in this country. This is fair because part of those higher oil prices do not result from higher costs of production, but instead result from the monopolistic actions of the OPEC oil producers.

It would be self-defeating, however, to enact a windfall profit tax which discouraged the search and development of new oil supplies within the boundaries of the United States.

This proposal will allow the independent producers the full incentive provided by deregulation.

My support for this proposal to exempt the independent producers from

the windfall profits tax is based on evidence that independent producers, unlike the majors will use their increased revenues resulting from deregulation for the search for new oil reserves.

Over the last few years, the independent petroleum producers have spent $33 billion in the search for and development of oil production capabilities. During this same time preiod, those independent producers sold oil worth $32 billion.

This figure is startling in its importance. Independent producers do not merely invest an amount of money equivalent to the profits that they make from oil production; they invest an amount of money equal to the total revenues they receive from oil production.

This practice by the independent producers is strikingly different from that of the larger producers. Over the same time period, the larger producers earned revenues of $89 billion, but made expenditures of only $63 billion in new oil supplies. While the independent producers invest over 100 percent of their gross receipts from the sale of oil, the major oil companies reinvest only 70 percent.

There is another reason to vote for the independent producers exemption. Production of oil in this country is dominated by several very large producers. The incentives offered by the independent producers exemption will help the smaller companies expand and compete with the major oil companies. For sake of competition, I urge my colleagues to vote for the independent producers exemption.

CORRESPONDING TAX INCREASE

Mr. President, I do not favor the independent producers exemption in isolation. The independent producers exemption would reduce total revenues from the Finance Committee's windfall profit tax bill by approximately $10 billion.

In fairness to the consumers in this country, I feel we must raise the tax on previously discovered oil to a higher level. To this end, I will cosponsor an amendment later to increase the tax on old oil to 75 percent.

In particular, I will cosponsor an amendment offered with Senators BRADLEY and CHAFFEE to raise the tax on upper tier old oil to 75 percent. Because this tax is on previously discovered oil, it will not inhibit production. Yet by adding more revenues to the Treasury, it can allow greater tax cuts in the 1980's, when the budget is balanced.

I strongly support this independent producer exemption, and hope my colleagues also support a lighter tax on old oil.●

● Mr. SIMPSON. Mr. President, as a cosponsor of this amendment, I wish to add a further note to this debate on the pending amendment.

One cannot at this point in the debate escape the issue that domestic production will indeed be responsive to the level of tax proposed in this legislation. All figures derived by the Congressional Budget Office, Joint Taxation Committee, and Finance Committee confirm that fact.

I may yet find myself in general support of major portions of the tax structure proposed by the Senate Finance Committee. Yet, I too believe that even with an exemption for newly discovered oil, domestic production will decrease in the not too distant future.

As much as this country desperately needs production from new discoveries, we also need to structure our fiscal policy to provide the incentive for improved production from existing fields. Production from my State of Wyoming is a case in point. Most of that production was begun prior to 1973 and the production equipment is presently in need of significant upgrading.

Such a decision should be one made using good business judgment with a clear eye on the rate of return from such an investment. I support the amendment since it creates a fine incentive for increasing the production from those areas with proven reserves—in existing fields.●

Mr. MOYNIHAN. Mr. President, I move to lay the amendment of the Senator from Oklahoma on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator from Oklahoma on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Iowa (Mr. JEPSEN) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 32, nays 52, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—32

Biden	Jackson	Nelson
Bradley	Javits	Nunn
Chafee	Kennedy	Packwood
Cohen	Leahy	Proxmire
Culver	Levin	Ribicoff
Danforth	Magnuson	Sarbanes
DeConcini	Mathias	Sasser
Durenberger	Matsunaga	Stafford
Eagleton	Metzenbaum	Tsongas
Glenn	Morgan	Weicker
Heinz	Moynihan	

NAYS—52

Baucus	Hatfield	Randolph
Bellmon	Hayakawa	Riegle
Bentsen	Heflin	Roth
Boren	Helms	Schmitt
Boschwitz	Hollings	Schweiker
Bumpers	Huddleston	Simpson
Burdick	Humphrey	Stennis
Byrd, Robert C.	Johnston	Stevens
Chiles	Kassebaum	Stewart
Church	Laxalt	Stone
Dole	Long	Thurmond
Domenici	Lugar	Tower
Exon	McClure	Wallop
Ford	McGovern	Warner
Garn	Melcher	Young
Goldwater	Percy	Zorinsky
Hart	Pressler	
Hatch	Pryor	

NOT VOTING—16

Armstrong	Cochran	Muskie
Baker	Cranston	Pell
Bayh	Durkin	Stevenson
Byrd, Harry F., Jr.	Gravel	Talmadge
Cannon	Inouye	Williams
	Jepsen	

So the motion to lay the amendment (UP No. 841) on the table was rejected.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I have been counseled, advised, implored, and beseeched, but not beseiged, by several Members on both sides of the question, urging that the vote on the amendment by Mr. BENTSEN be held on tomorrow at a specific hour. Mr. BENTSEN is ready to go forward now with a vote, or he is willing to go over until tomorrow.

It seems to be the consensus that it would be agreeable, and possibly advisable, to go over and have a vote at 12:30 p.m. tomorrow on the amendment by Mr. BENTSEN, with one hour and a half preceding that vote to be equally divided between Mr. BENTSEN and Mr. MOYNIHAN.

So I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Does the Senator have a suggestion?

Mr. METZENBAUM. I just want to be accorded an opportunity to have at least a half hour for debate. Since 45 minutes would be accorded to the Senator from New York, I would like to have an ample opportunity to be heard. Other than that, I have no objection.

Mr. ROBERT C. BYRD. We will start on the bill about 11 o'clock.

Mr. BENTSEN. I have no objection to making it an hour on each side, to accommodate the manager of the bill.

Mr. ROBERT C. BYRD. Would the Senator from Ohio be willing to speak now, while he has good attention?

Mr. METZENBAUM. Yes.

Mr. ROBERT C. BYRD. Would he like a half hour now, and then we could proceed as aforementioned?

Mr. METZENBAUM. Surely.

Mr. ROBERT C. BYRD. Mr. President, I make my request again, with the understanding that Mr. METZENBAUM will have 30 minutes, beginning now.

Mr. STEVENS. Mr. President, do I correctly understand that the vote will occur at 12:30? Is that the request?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. At a time certain?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENTSEN. Mr. President I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. McCLURE. Mr. President, reserving the right to object—and I do not intend to object—do I correctly understand that it will be an up-and-down vote on the amendment?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. And no other type of motion will be in order with respect to the amendment?

Mr. ROBERT C. BYRD. No motion to table would be in order.

Mr. McCLURE. What I am concerned with is whether we would get more than one vote starting at 12:30 tomorrow.

Mr. ROBERT C. BYRD. The vote would be on the Bentsen amendment.

Mr. McCLURE. Up and down on the Bentsen amendment, at 12:30.

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOLE. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. They have been requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, there will be no further votes this evening, is that correct?

Mr. ROBERT C. BYRD. Does the Senator know of any other amendment to be proposed or a substitute amendment?

Mr. MOYNIHAN. I do not know of any.

Mr. ROBERT C. BYRD. There will be no more rollcall votes today.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 30 minutes.

UP AMENDMENT NO. 840

Mr. METZENBAUM. The Senator from Louisiana has indicated he wants 2 minutes to present a matter.

Mr. JOHNSTON. I thank the Senator from Ohio.

Mr. President, I think it would take unanimous consent, but the matter temporarily laid aside I ask that it be reported, the amendment that I previously had temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, this amendment was previously passed by the Senate by a vote of 70 to 23. It is agreed to by the administration, by the majority and minority.

It was passed previously, but with blue slips, by the House on the ground that it was an amendment to the Trade Expansion Act and, therefore, constituted a revenue measure which must originate in the House of Representatives.

Not being one to quarrel with the Constitution, Mr. President, therefore I accept with good grace their verdict. Therefore, I want to put this amendment on this matter. It is precisely the same amendment previously passed.

As Senators will recall from the previous debate, it permits the President to impose a general quota or fee unless Congress, by joint resolution, opposes that, and then if Congress, by joint resolution, should, in effect, veto the President's quota or fee, then the President, in turn, can veto that joint resolution, which, in further turn, can be overridden by a two-thirds vote of both Houses.

What it does is it constitutes a compromise whereby the constitutional position of Congress as the raiser of taxes can be protected by involving it at least in a veto manner in matters of tax quota and, I might add, it does not prevent the President from imposing quotas without any statement at all from Congress provided it is the kind that pertains to one country.

This deals only with a quota on the total volume of petroleum products, so that it permits the President without any confrontation at all to propose a quota on any country except Iran.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. LONG. Can we understand that this will not prevent the President from doing what he has done in Iran?

Mr. JOHNSTON. Precisely, it will not prevent him from doing so.

Mr. LONG. Mr. President, in view of the fact that the Senate has approved this previously, and it appropriately should be an amendent to a revenue bill, I think we should just as well add it to this bill. It should have the attention of the House of Representatives. I personally hope the Senate will see fit to accept the amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. DOLE. I associate myself with the remarks of the chairman of our committee, Senator LONG, and I have no objection to the amendment.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER (Mr. PRYOR). The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I rise to address myself to not only the Bentsen amendment but to what has transpired here this afternoon on the final result that is obvious with respect to the windfall profits tax bill.

It is obvious that nothing I am going to say now is going to change the view of any Senator. Yet I feel I would be doing less than my job if I did not address myself to this whole question.

The U.S. Senate has obviously made up its mind that the less the amount of windfall profit tax, the better will be the bill. We went from $276 billion to $138 billion. We are down to $128 billion, and the raid has not yet been concluded.

I can understand people who would advocate lower taxes. But the fact is these funds are needed for a host of necessary projects, and the fact is that the lower taxes will not produce any new oil, and the fact is that oil companies of this country are having a heyday in the U.S. Congress.

Only this afternoon at about 2 o'clock a gentleman came to my office from Canada, from the Canadian Broadcasting Co., and he said to me, "Senator, some people say that the oil companies are stronger than the U.S. Congress or the President of the United States." And I said to him, "I know some people say that. I say it."

I say it again this afternoon: The oil companies have more votes here than the administration has, and more votes here than the people of the United States have, because what we are going to do is we are going to say we do not care about the fact that the oil companies are making billions upon billions of dollars; that the oil companies are causing the problems of inflation and our economy in this country to be driven totally askew. We could not care less because the oil companies want to pay less taxes and they want more dollars.

It started off when the administration, through the President, saw fit to decontrol the price of oil. That was his first mistake.

His second mistake is that he has not withdrawn that order decontrolling the price of oil. Maybe today's action will cause him to do so, and say to the oil companies and the Congress of the United States, "There will be no decontrol, there will be no windfall profit tax, unless I have a windfall profit tax bill on my desk that is satisfactory, that meets the standards that I have set."

Not the standards that somebody else has set, but the standards that the President has set. He is the only man in the United States who has the power to do something about what the oil companies are doing to our economy, doing to his administration, and doing to the U.S. Congress.

Oil company profits went up billions of dollars; 130 percent; 200 percent—pick a number, and that is the amount they went up.

And everybody said, "Boy, this will really cause Congress to be tough on the oil companies, won't it?" No way. We got 32 votes on the Bumpers amendment. We got 32 votes on the Moynihan motion to table the Bentsen amendment. No more, no less. And if you have another amendment, if you want to cut off another $10 billion—and there will be some—or $20 billion, it will pass. It will pass; there may be 32, 33, or 34 votes against it, but it will pass. This Congress is determined that the oil companies shall pay the least possible amount of taxes.

I do not know why I raise my voice, because I really feel sad, not mad. I feel sad that this is what is happening in

this Nation, when even the Saudi Arabians yesterday told us, "You need an adequate windfall profit tax." I guess they did not use the word "adequate," but I do not think there can be anything other implied that they thought it ought to be a windfall profit tax with some meaning to it, not just a shadow of that which it might be.

I have heard all the arguments about that it will be 70 percent or 80 percent of the total extra profits the oil companies will get. Mr. President, you can do a lot of things with numbers. You can figure out what tax rates are on paper, and then you can figure out what tax rates really are.

Corporate profits taxes in this country are a maximum of 48 percent, but there is not an oil company in this country that pays 48 percent. The oil companies have had a God-given right to be blessed, blessed by the Congress of the United States and blessed by administrations, whether Democratic or Republican. They had the depletion allowance, and they had the right to write off drilling costs. They had every right Congress could give them.

Some of us thought that maybe, with all these profits and concerns, maybe Congress would stand up to the oil industry and pass an acceptable windfall profit tax. The President of the United States goes on TV and talks about "We may become punitive."

When? When, then? How long do we have to wait?

We do not want to become punitive. We want to be just, fair, and equitable—fair and equitable with the oil companies, but fair and equitable also to the American people, the American consumers.

There is not any element of that taking place on the floor of the Senate today. The bill that we turned down, the bill that BUMPERS, myself, KENNEDY, and a number of other Senators proposed, was not any consumer lobby bill. It was the bill of the oil companies. It was the modified bill that came to the House floor and was supported by the representatives from Texas, Oklahoma, and Louisiana. They said it was their bill.

That is what Senator BUMPERS and the rest of us tried to put in today, not some radical kind of bill, not some bill that was punitive. That is the bill that the oil companies wanted when they were in the House of Representatives.

What kind of an industry is this, that no matter what you give them, no matter how you treat them, they want more and more? The distinguished Senator from Kansas stated it well when he said, "More money; more money, that is what it is all about."

Certainly no one disagrees that under the free interprise system the oil companies are entitled to a fair profit; but how far do we have to go? How much do we have to destroy this economy? How high does the inflation rate have to go? A 14-percent inflation rate, and 5 of those points come from energy. That is without the ripple effect, which is good for a couple of more points, or 50 percent of the total inflation rate in this country.

There is no reason under the sun why this Congress, why this Senate, should be unwilling to pass an effective, decent, fair windfall profit tax bill. But the votes this afternoon indicate clearly and unequivocally, and without any chance of contradiction, that the U.S. Senate is prepared to do that which the oil companies want.

These are not the small oil companies. That has been debated earlier. These are oil companies some of which make $200 million a year. That is hardly a small company, or one of those in the middle ground, some of which make $15 million, $20 million, $40 million, $60 million, and $100 million a year. A lot of them. And we are going to see to it that they make that much more.

Mr. President, it is with a great deal of sadness that I ask "What is happening on the floor of this Chamber?" I see the greatest giveaway of all time. First of all, there was the trillion-dollar giveaway by the President of the United States when, with one stroke of the pen, he increased oil company income a trillion dollars—an amount so large that nobody ever discusses it.

Then we talked about passing a windfall profit tax bill that had some equity to it. There is not any chance that it will be a fair windfall profit tax bill. The circumstances are obvious and the difficulties are apparent, and the conference committee is not going to come out with anything much more than the U.S. Senate passes. Maybe it will be something in between. But when all is said and done, this will be one of the great days that the oil companies have had in the Congress of the United States.

It is not alone the votes we took today; it is an indication of the votes we will take tomorrow. We will vote on other amendments. We will accept those that the oil companies want.

We had a couple of amendments early on that were just for fun and games, so Senate Members could say back home that they had voted against the oil companies. But the real gutsy amendments, the Bumpers amendment, the Bentsen amendment, and the amendments that are still to come, those are the real amendments, and they are the amendments that the American people are going to be forced to take.

It is a sad day. It is a day that I would have thought the Senate would pass a reasonably effective windfall profit tax bill. I did not think it would be as much as the House had sent over, even though that was the oil companies' bill, because I am a realist. But the fact is that before we get done, this will not be a windfall profit tax bill, it will become known as a Christmas tree bill. This will be the Christmas tree itself, the entire piece of legislation. We have lost the ball game. The oil companies have won it, and the American people, the American economy, and the American free enterprise system will pay the price.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Ohio (Mr. METZENBAUM) yield back his remaining time?

Mr. METZENBAUM. I do.

The PRESIDING OFFICER. The Senator from New York (Mr. MOYNIHAN) is recognized.

THE DEATH OF RICHARD H. ROVERE

Mr. MOYNIHAN. Mr. President, this day in the U.S. Senate ought not to conclude without our taking note of the death this past weekend of Richard Rovere who, for two generations of Americans, in politics, as it were, wrote the "Letter from Washington" column in the New Yorker magazine.

There has not in our time been a more perspective, fruitful and truthful reporter of this Capital. And say what it will about us, the reporting was not done from Washington at all, but rather from a small town in the Hudson Valley where Richard Rovere chose to live and observe from a distance the affairs of the Nation in the Nation's Capital.

Those who knew him now know how privileged we have been, and I was one who not only knew him but also one who, in the deepest sense, loved him.

I would like to record, and I think the Senate would share my view, that a great light has gone out and things are dimmer in the aftermath.

Mr. President, I ask unanimous consent to have Richard Rovere's obituary in the New York Times published in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 24, 1979]

RICHARD H. ROVERE IS DEAD AT 64; WROTE ON POLITICS FOR NEW YORKER

(By David Bird)

Richard H. Rovere, who wrote some of the most penetrating and respected commentaries on American politics as a columnist for The New Yorker magazine, died yesterday of emphysema at Vassar Brothers Hospital in Poughkeepsie, N.Y. He was 64 years old and lived in Barrytown, N.Y., where he did most of his writing.

Although he wrote about Washington, Mr. Rovere seldom visited the capital. He once explained: "With public figures in general, my feeling has been that the advantages of acquaintance are often more than offset by the disadvantages and that in general it is best to confine oneself to material that is fixed in the record and cannot be repudiated."

But when he did appear in Washington, his presence was noted. Reviewing Mr. Rovere's book "Arrivals and Departures, a Journalist's Memoirs" in The New York Times two years ago, Robert Sherrill said:

"The only time I ever laid eyes on him was at one of those White House conferences on something or other that the Johnson Administration was always throwing in the Shoreham Hotel. Into the big, spiritless room came this fellow who did have something of a different air about him, particularly because he was attended by a retinue, a small retinue to be sure, but still clearly a retinue. "There,

the reporter sitting next to me said with husky awe, 'goes Richard Rovere of The New Yorker.' "

DID NOT "BULLY OR PONTIFICATE"

Mr. Sherrill said Mr. Rovere revealed little of his personal life in his memoirs, but the reviewer said he was left "with the pleasant feeling that here's a fellow who has seldom used his marvelous talents to bull or pontificate and who has always taken good care of the language."

"He deserves a retinue," he added.

In addition to his column for The New Yorker, Mr. Rovere wrote more than half a dozen books. Perhaps the most widely acclaimed was "Senator Joe McCarthy," published in 1959, two years after the death of the Republican Senator from Wisconsin. In the book Mr. Rovere called the Senator a "liar," "barbarian," "seditionist" and "cynic" who was "in many ways the most gifted demagogue ever bred on these shores."

Reviewing the book in The Times, Anthony Lewis called it "a vividly written, sophisticated re-creation of a political episode whose manic qualities already begin to seem unbelievable." Mr. Rovere's thesis was that Senator McCarthy did not have any specific goal, but took up whatever causes seemed to win him the strongest response.

HIS 1956 VIEW OF NIXON

In his book "Affairs of State: The Eisenhower Years," which appeared in 1956, Mr. Rovere described Richard M. Nixon, who was then Vice President, this way:

"Nixon appears to be a politician with an advertising man's approach to his work. Policies are products to be sold to the public—this one today, that one tomorrow, depending on the discounts and the state of the market."

He added that Mr. Nixon moved from intervention in Indochina "to anti-intervention with the same ease and lack of anguish with which a copywriter might transfer his loyalties from Camels to Chesterfields."

Some time later, evaluating the American Presidency, Mr. Rovere wrote: "A head of state, particularly in a diverse and democratic society, is necessarily a kind of philanderer, and in dealing with the numerous mistresses, or constituencies, he is bound to make false professions of one sort or another."

William Shawn, editor of The New Yorker, who hired Mr. Rovere in 1944 and persuaded him to begin writing the "Letter from Washington" column in 1948, said yesterday:

"Richard Rovere was among the fairest, most nearly objective, most brilliant writers on American politics. He wrote with tremendous skill, with care, with humor, with style. He was a great clarifier. He brought an extraordinary clarity of mind to bear on complex and confused political situations and made them comprehensive. The New Yorker has suffered a great loss."

A NATIVE OF JERSEY CITY

Richard Halworth Rovere was born on May 5, 1915, in Jersey City. His father was an electrical engineer, a job that the son thought was so "unglamourous" that he told friends when he was growing up that his father was a fireman.

The family later moved to the Upper West Side of Manhattan, and Richard Rovere went off to the Stony Brook School on Long Island.

"I disliked the atmosphere of the classroom," he recalled of his time there, and he accumulated "the lowest all-around record ever made." In his junior year he became the editor of the school's newspaper, The Bulletin.

He went on to Bard College at Annandale-on-Hudson in 1933 and, like many students of the time, drifted toward Communism. He described himself as a "Marxist-Leninist with only a sketchy reading of Marx and an even sketchier one of Lenin" who never joined the Communist Party or attended its meetings because he found them "almost intolerably dull."

OTHER MAGAZINE EXPERIENCE

After graduating from Bard in 1937, Mr. Rovere joined The New Masses, a magazine that he said "consistently, indeed slavishly, followed the Communist line." Unable to follow that line any longer, he left the magazine in 1939 and went to The Nation a year later. In 1943 he joined the magazine Common Sense and a year later went to The New Yorker.

He wrote the Washington column, the name of which was changed to "The Affairs of State" several years ago, for more than 30 years at the rate of about once a month. The last column appeared this year in the magazine's Aug. 6 issue.

Mr. Rovere is survived by his wife, the former Eleanor Alice Burgess, whom he married in 1941, and three children, Ann, Richard and Elizabeth.

The family said that the body would be cremated and that there would be no funeral service.

Mr. METZENBAUM. Will the Senator from New York yield?

Mr. MOYNIHAN. I am happy to yield to the Senator from Ohio.

THE VOICE OF LIBERAL CONSCIENCE

Mr. METZENBAUM. Mr. President, a man who has come to be known as not only the "voice of liberal conscience," but "* * * for a whole generation a voice—not still and small, but loud and sometimes abrasive—of the American political conscience" is truly a remarkable human being. A man who has felt the pressure of battle under Gen. Douglas MacArthur, who has served not one, but two of the most distinguished jurists in the history of this Nation, and who has had a major role in virtually every important piece of domestic legislation in the last three decades must certainly be a man of elected office, or a member of the Cabinet. But, Mr. President, this is not the case. He is a private citizen for whom involvement is not just a part-time job, but a way of life. His name is Joseph Rauh.

Most of us, Mr. President, have come to know Joe Rauh in one way or another. As an ally, we have come to appreciate his wisdom, guidance, and diligence. As an opponent, we have seen him as a formidable foe who fights with everything within his power to win. Either way, Joe Rauh has earned our respect and admiration.

As I mentioned earlier, Mr. President, Joe Rauh has had an active role in the formation of our domestic policies. As a young attorney in 1948, Joe Rauh wrote the minority civil rights plank in the Democratic Party Platform. He led the fight for the 1960 Kennedy Civil Rights Platform, and, as a cofounder of the Americans for Democratic Action, Rauh has been involved in a number of other civil rights programs from the inception.

Mr. President, as a Senator from Joe Rauh's home State, I am extremely pleased and honored to offer an excellent article about Joe Rauh for the RECORD. The article, entitled "The Fighting Liberal," appeared in the Sunday, October 7, 1979 edition of the Washington Post. I request unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 7, 1979]

THE FIGHTING LIBERAL

(By Michael Kernan)

The most deeply involved in the shaping of their times make the worst historians.

If you had told Napoleon that he was the father of nationalism, he would doubtless have replied, "Well, I don't know about that, but you should have seen us coming up out of the fog at Austerlitz, and wasn't I something else on the bridge at Lodi?"

Joseph L. Rauh Jr. will wince to see himself in the same sentence with Napoleon. But it's true: Ask him a general question, and he'll tell you an anecdote.

Rauh, a founder of Americans for Democratic Action, has been called the embodiment of the American liberal. He's the guy who wrote the historic minority civil rights plank in the 1948 Democratic platform (and therefore, some would say, the man who invented Hubert Humphrey). He's the guy who led the fight for the 1960 Kennedy civil rights platform, who helped clean up the rival delegation mess at other conventions, who defended playrights Arthur Miller and Lillian Hellman, who was the influential counsel for Walter Reuther's United Auto Workers through the tough '50s, who has been for a whole generation a voice—not still and small, but loud and sometimes abrasive—of the American political conscience.

"He's the white liberal," someone said, "that the blacks had in mind when they broke loose to form the black power movement."

Rauh likes that. "That's what we were fighting for," he says. "I can die happy because they're their own leaders now. Felix Frankfurter (whose law clerk Rauh was) was a founder of the NAACP in 1909. It's wonderful they don't need us now. There are 60 blacks on the board now, and four of us whites. Though I wish they'd listen a little more to the old man. . . ."

He chuckles. He loves to talk. Ask him about the time he got thrown out of the postmortem meeting on the firing of Andrew Young from the U.N.:

"Just after it happened I got a telegram inviting me to a black leaders' meeting in New York the next morning. I wasn't sure about this so I called Robert Hooks and got his assistant who assured me I was invited.

"But I still wasn't convinced I was really wanted, so I called Kenneth Clark, a friend of mine, and he said, 'You got to come, Joe, we need you badly.' So I went up there, and I was standing around talking to people, when this guy comes up and says the leadership of the meeting thinks I shouldn't be there. I showed him my telegram, and Hooks and Clark and I went into the next room."

The problem, it developed, was that if Rauh were publicly rejected, "half the place will leave with you," and then the media story would be Rauh, and not Young's firing, the real issue.

"Hooks said there'd be a lot of crazies in the meeting. I asked him if as executive vice president of the NAACP it would be in the interests of civil rights for me not to go into that room, and he said yes. I said okay."

So Rauh sat in the anteroom, and others brought him progress reports. "It's just that the meeting was so anti-white that my presence would cause trouble. The sad thing is that we had reached that stage. However, I feel we can get together again. It's a fight in a marriage, not a divorce."

The reason for his exclusion was not so much his being white, some observers remarked later, as for his being Jewish.

Still, race was partly the problem, dating,

it is said, from black rage at the Bakke decision.

"I felt it was very unfortunate," commented Clarence Mitchell, Rauh's comrade in NAACP leadership for at least 28 years. "The NAACP has never drawn a color line on anything, and Joe's a board member. He showed real statesmanship and charity, I thought. If I'd been there I'd not have stayed. I think the issue would never have escalated so far out of proportion if it hadn't been such an attractive way of getting on TV."

Some of the people at that meeting weren't even born yet when Joe Rauh was picketing the National Theater in 1947 because it didn't allow blacks. Several groups took turns picketing (his was Friday night) despite threats of redneck violence. The pickets closed the place for months.

Then there were the sit-ins at restaurants and other public spots in Washington. And the time in 1951 when Rauh represented Philip Randolph, the great black union leader, trying to join an all-white association of railway executives for which he was eligible.

"We sued 'em and won, of course, and we went to the suite in the old Hamilton Hotel. They were sitting around and didn't invite us to sit. That was okay for me, but imagine: Randolph, there is this beautiful, dignified old man and we were standing there against the wall.

"And the president of the railway clerks, George Harrison, says, 'Randolph (no Mister), it'll cost you so much to belong. You have the money? Yes. We meet every once so often. Yes. Well, that will conclude our business.' They dismissed us, and we went outside and stood on the northeast corner of 14th and K, and I said, 'Mr. Randolph, we should have a drink to celebrate.' He said, 'Well, Mr. Raw (he never did get my name straight), where can we go?'

"I told him, either to my house or to Union Station. He looked at me and after awhile he said, 'Mr. Raw, we have just had a symbolic drink. I bid you goodnight.' "

There are not many blacks in the ADA. It's a disappointment to him. "Still some social barriers," he mutters, recalling the time he debated the Bakke case at his temple only to be attacked by a woman who fumed, "We've done enough for THEM!" He shouts the line bitterly, for it is exactly this attitude that he has been confronting all his life.

"The basic problem with '76 (a number which in Rauh-ese stands for the Carter election) was that many who were in it allegedly on an idealistic basis backed out. The idealism crumbled: that's the explanation of Carter. After the liberals lost in '68 and got the s - - t kicked out of us in '72, they got hungry."

At one debate he met a young party worker who had sweated in the vineyards for Gene McCarthy and McGovern, and he threw his arms around the young man. So glad you're back in the fight, he said.

"Oh no, Joe," the guy replied, "I've got to be with the winner."

"Maybe," Rauh adds as he tells the story, "it's asking too much to ask human beings to turn their liberalism into an idealism which doesn't further their self-interest."

You don't find a 68-year-old idealist around every corner these days. Perhaps there were more of them in 1946, after World War II, when it was still fun to be a liberal. In those days the big question was how to be liberal without being Communist, and in that year theologian Reinhold Niebuhr brought together some of his friends.

"There was Reinie and Jim Loeb and Jimmy Wechsler, who was an ex-Communist, and Art Schlesinger and me. I was probably the least skilled in politics of them all at the time. We were the NCL, The Non-Communist Left."

A year later Mrs. Franklin D. Roosevelt and two of her children enlarged the group to 144 people—what commentator Elmer Davis called the "government in exile," this being in Harry Truman's conservative early period—and called it the ADA, offering a liberal alternative to the Communists and to Henry Wallace.

Mrs. Roosevelt was their heroine, Rauh recalls. "She had such a sense of what had to be done. She set me fund-raising right away, and I went to David Dubinsky of the garment workers union, and he pledged $5,000, and that's how it started. She was a practical potato from the beginning."

Never large in terms of numbers, ADA was always a leadership organization, running close to 60,000 members ("a little better today because of Kennedy"), and a force to be dealt with at every election. Many Democratic politicians understand the need to score fairly high on ADA's line but they hate to fit the perfect ADA silhouette.

As for Ted Kennedy, who comes very close to the silhouette, Rauh feels the ADA is of less use to him than he is to them. "He brings practical possibilities to liberalism. The hardest thing is if you get a conservative Democrat for president. He's the head of your party, so you're kind of boxed in. You can't sock it to him as you could a Republican president.

"I presume Kennedy won't run as a 100 percent ADA-er. It would be stupid to expect that. If he has to make compromises, we have to understand."

And what would that mean, a 100 percent ADA-er? Or, put another way, what is a liberal? ADA's 1950 constitution asserts, "We believe that rising living standards and lasting peace can be attained by democratic planning, enlargement of fundamental liberties and international cooperation. We believe that all forms of totalitarianism, including communism, are incompatible with these objectives . . . "

Rauh, profoundly uncomfortable with generalities, merely says that the liberal sees government as a means of helping those who can't help themselves. It is the familiar argument that we need Big Government to defend us from Big Business. (The phrase "democratic planning" seems to be a euphemism for federal programs.)

Ask Joe Rauh if the American liberal is obsolete, and his bow tie jiggles indignantly. He comes back with a list of issues and incidents where the liberal view triumphed. Press him, and he talks about Carter's lack of ideology.

Some of his colleagues, notably David Cohen, president of Common Cause, an old friend and former ADAer, would come up with an analysis of the problem: liberals "whose last hurrah with the old FDR coalition was with Humphrey in '68" must figure out a way to enlist the antigovernment forces which so far they have abandoned to single-issue mavericks like Howard Jarvis. They must quit relying on ever-bigger government as the stock answer and deal with "the new constituencies, the conservationists and consumers, and new positions, like deregulation and the citizen right to safety from crime, which we've left to the conservatives for a decade . . ."

But this is not Rauh's style. He has been faintly praised as "a master tactician," and maybe that's not such a bad thing after all, in a time when grand statements of purpose draw only scowls, hoots and yawns.

Then too, he doesn't have to tell people where he is coming from. Seldom in American politics has one person been so completely identified with a point of view. For this reason, like all unambiguous people, he makes an easy target. Some young lawyers take issue with his stand against the "hired gun" theory: he feels that lawyers "shouldn't do things that are contrary to their own view of the public interest."

Argue with him, however, and he doesn't come back with a manifesto; he gives examples, case histories.

He does the same thing when you ask him about his life. Where did this hunger and thirst for justice come from? He has no idea. "My parents were Republicans," he says, with some wonder.

His sister, Dr. Louise Rauh of Cincinnati, offered a few insights. Their father migrated from Germany at age 16. He wanted to be a doctor but was too poor and had to work at anything he could get. Eventually he did make money as owner of a small shirt factory in Cincinnati, and he gave the three children every opportunity he could. (The oldest brother is dead.) Joe went to private school. Harvard (magna cum laude 1932), Harvard Law (magna cum laude LL.B), and Louise became a pediatrician.

"Our parents were very community-minded," she said. "They were wonderful to us. Very generous."

There were plenty of political arguments at the dinner table. Discourse was continual and natural. "Even at 6 or 7, Joe used to ask his father what was going on at the plant. Oh, we were a thorn in his side. We had to hold back a bit when he got older."

When Rauh's own sons, Michael and Carl, were growing up the talking continued.

"They're both more conservative than we are," said Olie Rauh, who is active in Planned Parenthood and other causes. Carl is a U.S. attorney (a prosecutor! how does the old defender feel about that? "Not a problem, I empathize with him. I cried when he lost the Yeldell thing. I hope he stays in the field"), and Michael is in private practice.

One of the three grandchildren, Michael Jr., a Young Democrat at the University of Rhode Island, has a collection of 300 Kennedy buttons.

After serving as law clerk to both Frankfurter and Justice Cardozo, Rauh went to the Pacific on Gen. MacArthur's staff, wound up a lieutenant colonel. He served with some government agencies, and his ADA offices include head of the National Executive Committee, national vice president and president.

There we go again: Try to get at the man and you wind up with the career. Practically everyone in town has had dealings with him—whether as a father of D.C. home rule, or counsel to the UAW, or ally of Walter Reuther ("the greatest labor leader of our time") and the murdered Jock Yablonski, or Democratic party stalwart, or private lawyer.

THE LIBERAL CAREER OF "THE MAN WHO INVENTED HUBERT HUMPHREY"

From the clips:

"Joseph L. Rauh, Jr., attorney and a principal figure in the successful four-year effort to oust United Mine Workers President W. A. (Tony) Boyle, said yesterday he no longer is active in the union's affairs. 'I don't think it looks well to lead a crusade and then try to benefit from it,' Rauh said. . . . (1973)

". . . And had it not been for Joseph L. Rauh, Jr., who did some personal recruiting, it is almost certain that every Jewish organization that expressed interest in the DeFunis (reverse discrimination) case would have been on the opposite side from every black group that took a stand on the case. . . ." (1974)

"Said Joseph L. Rauh, Jr., counsel to the Leadership Conference on Civil Rights, 'For myself, I would not consider an extension of the Voting Rights Act without adequate protection for Mexican Americans a victory for civil rights. . . .' " (1975)

"Attorneys for the American Civil Liberties Union, led by Joseph L. Rauh, Jr., contended that there is no history of radical demonstrators attempting to storm the White House and that even if it happened in the

future, there are adequate safeguards to protect the president. . . ." (1973)

"The federal government was ordered yesterday to pay $97,500 in legal fees to the local law firm of Rauh and Silard, which handled a successful court suit to achieve strict enforcement of elementary and secondary school desegregation in 17 states, including Maryland and Virginia. . . ." (1974)

"Joseph L. Rauh, Jr., a longtime backer of Mayor Walter E. Washington, has left the mayor's campaign committee because he feels the candidate is too closely allied with the Metropolitan Washington Board of Trade. . . ." (1974)

" 'I guess Joe Rauh and I were working at home rule support longer than God,' mused Polly Shackelton, a former member of the District's presidentially appointed city council, as she announced her candidacy in the first city election in more than 100 years. . . ." (1974)

"A very aggressive kind of guy," one said. "In '68 he was hot for McCarthy, and he was abusive to the Kennedy people. But he's a realist." He even made his peace with Lyndon Johnson, when the time came.

(Johnson, by the way, signed a picture in Rauh's office: "To Joe Rauh: a fighter." He could accommodate, too.)

"I'm an extrovert," Rauh likes to say, and he can be as opaque as most extroverts. He can be casual about what he wears, from the worn shoes to the trademark bow tie, and about what he says to a reporter—and endearing trait in tight-mouthed Washington. He probably wouldn't know how to talk sotto voce. But then, he doesn't have to.

Maybe the best thing is not to try too hard to squint into his psyche. Maybe the best thing is to stick to the anecdotes. He tells one about a fight he had with Walter Reuther at the '64 convention when Rauh, no longer with the UAW, was counsel for the Mississippi Freedom Democrats. He was winning the platform battle, and Johnson got worried.

"Johnson brought Walter in to stop us, not because he was an ordinary guy but because he thought Walter could handle me. Walter gave me an order to accept the proposals. I said, 'Walter, you can't give me that order.' For six months he didn't speak to me."

It was the kind of thing that can sour some politicians for a lifetime. Rauh told more stories about Reuther the autocrat, chuckling, but when you mentioned the famous news photos of the labor leader, the one with bloody nose, the one with his arm in a sling, Rauh remembered them better than you did, remembered the dates and the details and what Reuther had said and how he had felt and what had happened next. Some things, he seemed to be saying, are more important than politics.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN BAR ASSOCIATION SUPPORTS GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, for many years one of the strongest arguments against ratification of the Genocide Convention was that the American Bar Association was against it. The ABA, one of this country's most respected professional organizations, was indeed an early critic of the convention. Having this group on record against the treaty lent credibility to those who sought to block our participation in this international human rights agreement.

This is no longer the case. The treaty had been a matter of great debate within the ABA for decades, and in 1976 that organization's House of Delegates voted overwhelmingly to reverse its previous position and to recommend ratification of the Genocide Convention. Testifying before a Foreign Relations Committee hearing on the convention in 1977, a representative of the ABA said,

. . . there appears no provision in the Constitution that would support a successful attack on constitutional grounds, and no objections asserted on a legal basis justify delaying ratification.

He concluded:

The United States is now reestablishing its moral leadership in the world. If it now ratified this Convention, it would be a clear demonstration that it is faithful to its pledge under the U.N. Charter. More than that, it would also be acting in its own best national interest.

In giving public support to the treaty, the ABA is among distinguished company. The American Baptist Convention, the American Civil Liberties Union, and the United Auto Workers are only three of the many civic and professional groups that have joined in calling for ratification. Individuals who have spoken out in favor of the treaty range from Justice Arthur Goldberg to author William F. Buckley. In addition, every President of the United States since Harry Truman has endorsed the Convention.

The list of those favoring the Genocide Convention goes on; with the shift of the American Bar Association, there remain relatively few major sources of opposition. I urge my colleagues to ratify the Convention now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Charles B. Renfrew, of California, to be Deputy Attorney General, which was referred to the Committee on the Judiciary.

MESSAGES FROM THE HOUSE

At 2:50 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the text of the bill (S. 1871) to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. DINGELL, Mr. OTTINGER, Mr. SHARP, Mr. BROYHILL, and Mr. BROWN of Ohio were appointed as managers of the conference on the part of the House.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Governmental Affairs:

Special report entitled "Labor Union Insurance Activities of Joseph Hauser and His Associates" (S. Rept. No. 96–426).

"LABOR UNION INSURANCE ACTIVITIES OF JOSEPH HAUSER AND HIS ASSOCIATES"—REPORT OF THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

● Mr. NUNN. Mr. President, on behalf of the Senate Committee on Governmental Affairs, I submit a report of its Permanent Subcommittee on Investigations entitled "Labor Union Insurance Activities of Joseph Hauser and His Associates."

Mr. President, this report contains the subcommittee's findings, conclusions and recommendations based upon its 3-year investigation of a scheme by Joseph Hauser and his associates involving the sale of insurance to several union employee health and welfare benefit plans.

The investigation began in September of 1976. Hearings were held October 10–12, 17–19, 28 and 31, 1977 and November 1, 2, and 4, 1977, at which 27 witnesses were examined under oath. Additional evidence was received in the form of exhibits and sworn affidavits. The subcommittee conducted subsequent studies of the Department of Labor's enforcement program, including hearings on labor management racketeering held on April 24 and 25, 1978, and a September 28, 1978, report by the U.S. General Accounting Office entitled "Laws Protecting Union Members and Their Pension and Welfare Benefits Should Be Better Enforced."

I wish to express my gratitude to Senator PERCY, the ranking minority member of the subcommittee, and the other Senators who participated in our

inquiry for their cooperation and attention to the important national issues raised in this investigation.

The Hauser inquiry was an outgrowth of previous subcommittee staff studies in June 1976 and March 1977 of a highly questionable whole life insurance plan sold to union employee severance pay trust funds by a group headed by Louis C. Ostrer. The effect of Ostrer's plan was to extract high insurance premiums and excessive commissions from the trust funds by selling them whole life policies rather than much less expensive term policies. In the course of that inquiry, the staff identified the Hauser group, which also was selling questionable whole life insurance policies to union employee benefit plans in Florida.

As noted in the report, the subcommittee's investigation subsequently revealed that Hauser actually sold insurance to 20 plants located in eight States during the period 1973 to 1976. These insurance contracts generated $39 million in premiums paid by these funds to Hauser's companies. Of this amount, the subcommittee identified over $11 million in diversions and questionable expenditures by Hauser and his associates, including misappropriations of cash, worthless investments, payments of questionable commissions, and other items.

The insurance and other companies victimized by Hauser's scheme were forced into receivership and either liquidation or reorganization proceedings. A number of the employee welfare funds which purchased insurance contracts from Hauser sustained substantial losses.

The greatest loss—about $7 million—was suffered in 1976 by the Teamsters Central States, Southwest and Southeast Areas Health and Welfare Fund. The contract placed by the Teamsters fund was one of the largest ever put on the market and provided $2.6 billion of insurance for 180,000 Teamsters Union members. The annual premium amounted to $23 million.

In addition, thousands of individual policyholders of insurance companies, which failed as a consequence of Hauser's scheme, have lost cash values and insurance protection. The investors in these companies have also sustained substantial losses.

Hauser and three of his associates were indicted by a Federal grand jury in Phoenix, Ariz., based upon activities that had been explored by the subcommittee. The indictment charged Hauser and the other defendants with conspiracy to conduct a racketeer influenced and corrupt organization, and interstate transportation, receipt and disposition of unlawfully converted funds of labor union trust funds.

On February 5, 1979, Hauser pleaded guilty to three counts of the indictment. Another defendant, Bernard Rubin, a major figure in the laborers' union in Florida, pleaded guilty to a single count on December 4, 1978. Defendant Brian Kavanagh entered a guilty plea in October 1979. Both Hauser and Rubin had previous convictions on unrelated matters. Hauser was found guilty in March 1977 of bribing and attempting to bribe union officials in California to do business with a health insurance firm that he owned. Rubin was found guilty in October 1975 of embezzling funds of Florida union and union welfare plans.

The collapse of the Hauser operations also was followed by many civil suits, many of which are still unresolved.

The record of this case presents an alarming picture of the relative ease with which an unscrupulous operator like Hauser can obtain control of insurance companies; how he can acquire insurance awards from several large union employee benefit plans, which generated millions of dollars of premium payments to his insurance companies; and how he can then loot the assets of his own insurance companies.

The investigation demonstrated the particular vulnerability of employee benefit plans to insurance-related fraud schemes. The subcommittee concluded that this vulnerability stems in large part from serious weaknesses in the regulation of insurance, and that corrective Federal legislation and State action is required.

Hauser was able to exploit the wide variations among the States in their legal requirements for licensing and regulating insurance companies and the ineffectiveness of State enforcement attributable to jurisdictional and other problems in dealing with multi-State insurance companies.

Hauser conducted his operation primarily through Farmers National Life Insurance Co., a small Florida carrier licensed in four other States, and through Family Provider Life Insurance Co., a virtual shell licensed only in Arizona.

After his initial success in Florida, Hauser expanded his operation into Indiana, Massachusetts and Illinois—States in which neither Farmers National nor Family Provider were qualified to do business. To do so, Hauser entered a form of reinsurance agreement, known as a "fronting" arrangement, with Old Security Life. Old Security was licensed in 49 States and primarily a credit life insurance company. Although a small company, its assets were considerably greater than either Farmers National or Family Provider.

Reinsurance is a method commonly used by insurance carriers to spread the risk of insurance, whereby the company issuing the policy risk reinsures a portion of its risk to another company which receives a commensurate share of the profit. However, under Hauser's fronting arrangement with Old Security, Old Security issued the policies, but merely as a front for Hauser's companies. The Hauser group conducted the selling effort, obtained control over most of the premium income, and reinsured 80 to 100 percent of the risk. Old Security received a percentage of the premiums as its profits, but did not maintain reserves or perform any other significant functions. Old Security failed even to conduct an adequate background investigation of Farmers or Family Provider prior to entering these arrangements.

The details and implications of these reinsurance arrangements were not brought to the attention of the trustees of the employee benefit plans. In the case of two Arizona laborers' union funds, the Farmers National and Family Provider submitted their own bids in competition with their reinsurance partner, Old Security. However, the trustees awarded the contract to Old Security because of their desire to deal with a more substantial carrier. The trustees were unaware that by doing so, they actually were awarding their business to Family Provider. That information was kept from them.

The most egregious example of abuse of reinsurance was in the Teamsters fund case. The Teamsters fund trustees awarded the $23 million contract to Old Security. However, under the fronting arrangement, 80 percent of the risk was reinsured to Family Provider, which obtained control of initial Teamster premium payments. Much of the premium payments were misappropriated by Hauser.

Due to Arizona's low capitalization requirements, Hauser was able to activate Family Provider with only $250,000 in capital. This company had one employee and that employee answered telephone calls only with a telephone number.

In June 1976, Hauser purchased control of National American Life Insurance Co. (NALICO), a Louisiana-based carrier, using part of the Teamster fund premiums he misappropriated. At the time Hauser was under indictment returned by a Federal grand jury in California in March 1975. Louisiana law did not require prior approval of this purchase and, thus, did not review his background and qualifications to manage an insurer before he bought the company. In July 1976, despite objections from the Teamsters fund, Old Security assigned the remainder of its interest in the fund's policy to NALICO. As a result, Hauser gained control over additional fund premiums which he then diverted.

The subcommittee's report notes testimony received from Gov. Bruce Babbitt of Arizona indicating that the National Association of Insurance Commissioners' computerized system to pool data about insurance companies is not working effectively. This was more recently confirmed in a GAO report on State insurance regulation. Governor Babbitt and James Hanna of the Florida Department of Insurance also pointed out that jurisdictional problems impede the States' regulation of multi-State insurance carriers. The subcommittee also received a letter from the Securities and Exchange Commission stating that its experience in its enforcement activities (including an action concerning Hauser's takeover of NALICO) indicates the growing complexity of possible misconduct and the difficulties faced by State regulators, with their limited jurisdiction and resources, in attempting to deal with the varieties of problems presented by multi-State insurance companies.

The subcommittee concurs with Governor Babbitt's appraisal that there is a "big vacuum" between Federal regula-

tion and the "State model which breaks down because of the interstate nature of virtually all commerce today."

The subcommittee's proposals for corrective action to deal with the weaknesses in insurance regulation include Federal legislation: First, amending the Employee Retirement Security Act (ERISA) to direct the Secretary of Labor to establish minimum standards that insurance companies would have to meet before an employee benefit plan could deal with them; and second, amending the Securities Exchange Act of 1934 to delete a provision exempting insurance companies from a requirement that their financial statements be audited by independent public accountants.

The subcommittee also calls upon the States to strengthen their respective insurance laws and regulations relating to licensing, capitalization and reserves of insurance companies, and the investigatory and enforcement powers of their insurance departments. The subcommittee believes that State laws should: First, require advance State approval of transfers of control and thorough background checks to assure that dishonest and other unreliable persons are excluded from managing and controlling insurance companies; second, prohibit the use of reinsurance as a fronting device to circumvent State laws; and third, effectively regulate insurance company transactions with their management and other affiliates to prevent overreaching of the insurer.

The subcommittee also recommends that the States enter into interstate compacts which would: First, enable them to obtain prompt enforcement of their subpenas, injunctions, and other orders relating to their domestic insurers doing business in other jurisdictions; and second, require the exchange of data obtained in investigations and other information among State insurance departments. The report proposes Federal legislation giving advance approval to such compacts. The subcommittee further recommends that the Federal Government and State insurance authorities take steps to improve cooperation in the reporting of information about possible violations of Federal and State laws and regulations.

The subcommittee's investigation also revealed Hauser's modus operandi, in that he cultivated influence through payments and other inducements and exploited less than vigilant businessmen, including an insurance consultant and trustees of some of the plans.

The records showed a disturbing pattern of payments by Hauser in connection with the insurance awards by employee benefit plans. Many of these payments were purported commissions paid by Hauser's insurance companies to agencies controlled by Hauser. Other payments were made and inducements offered to persons who were in positions to influence the award of employee benefit contracts. The subcommittee found these expenditures were of no or questionable benefit either to the employee benefit plans or the insurance companies involved.

Some of the recipients of Hauser's payments were fiduciaries, such as Bernard Rubin, a trustee of certain of the Florida laborers' welfare plans. Rubin, who received the use of an expensive sports car leased by Hauser, was intrumental in the insurance awards by the laborers' union to Hauser's companies.

Other persons, while not fiduciaries, had contacts with persons who were in influential positions. For example, in the Indiana Laborers' Fund case. Hauser established Paul Fosco in insurance agency business and paid him about $260,000. Fosco, the grandson of the then president of the Laborer's International Union, had a close relationship with one of the fund's trustees. No documentation existed to support a correlation between the payments to Fosco's agency and the amount of the insurance business generated by that agency.

In the Teamsters Fund case, former U.S. Attorney General Richard Kleindienst received a $250,000 fee from Hauser, half of which Kleindienst gave to public relations executives Thomas Webb and I. Irving Davidson pursuant to a fee splitting arrangement. Kleindienst did not occupy any formal position with the fund. He received the fee for his efforts in behalf of Hauser and Old Security in contacting Teamsters fund trustee Frank Fitzsimmons, with whom Kleindienst had a personal relationship. The subcommittee found that Kleindienst's contacts with Fitzsimmons apparently triggered Fitzsimmons' interest in pursuing the Old Security bid and was one of the significant factors contributing to the fund's award to Old Security.

In this connection, Hauser failed to disclose the Kleindienst fee to the Teamster fund, despite the desire of the Fund, expressed in its specifications, that finder's fees and commissions not be paid in regard to the underwriting of the contract. Had the fee been disclosed, the unusual size of the fee—about 10 times Old Security's annual profit—quite likely would have put the trustees on notice that this was not a bona fide deal. Indeed, Hauser actually paid the $250,000 to Kleindienst out of the proceeds of the Teamsters funds initial premium payments that he—Hauser—had misappropriated.

Fees of this nature also raise questions under State insurance laws. For example, the director of Insurance of Arizona, as receiver of Family Provider, filed a civil action against Kleindienst, Webb, and Davidson, seeking recovery of the $250,000 fee, which was repaid in an out-of-court settlement of that action. The complaint charged that the receipt of the fee by the defendants constituted, among other things, unjust enrichment at the expense of Family Provider.

The subcommittee recommends legislation which would require disclosure of these kinds of payments and which would provide criminal penalties for willful false misstatements and concealment of material facts. One of our proposals would require an insurance company, prior to selling an insurance contract to an employee benefit plan, to disclose all finder's fees, commissions, and other payments paid and proposed to be paid in connection with any sale. Another proposal would require fiduciaries and other parties in interest to an employee benefit plan to disclose the receipt of payments from, and financial relationships with, firms doing business with the plan.

These proposals would provide trustees and other fiduciaries of employee benefit plans information necessary to assess the prudence, propriety, and legality of their decisions involving commitments of plan assets. The disclosure would supplement existing ERISA restrictions on transactions by a plan in which a fiduciary or other party in interest of the plan participates for his own account. In this connection, the subcommittee also suggests that Congress extend the definition of "party in interest" to include relatives of union officials and. thus, subject payments to such persons to the existing prohibited transactions provisions of ERISA and to the recommended disclosure requirements applicable to parties in interest.

The subcommittee examined the role of Tolley International Corp. as insurance consultant to the Teamsters fund and to the laborers' funds in Indiana and Massachusetts in those funds awards to Old Security. The subcommittee found that Tolley International's conduct fell well short of the standards of care and independence that an employee benefit plan should expect of its insurance consultant.

For example, the subcommittee found that Tolley International either knew or should have known that Old Security was fronting for Hauser's companies and should have brought that information to the attention of the trustees. Tolley International also had a less than arm's length relationship with Hauser. The record shows that the firm acted as consultant to these employee funds with the expectancy that Hauser would use his union contacts to assist it to obtain new union fund consulting business. The weight of the evidence also indicates that in the Teamsters fund case, Tolley International aided the Hauser group by, among other things, giving it advance inside bidding information concerning how to make its bid competitive. In making the award to Old Security, the trustees said they relied on Tolley International's recommendation. The subcommittee concluded that Tolley International's questionable and undisclosed relationship with Hauser was one of the important factors contributing to the Teamsters fund award to Old Security.

Tolley International's representative testified that Tolley acted in accordance with usual industry practice, and that he did not believe Tolley was a fiduciary under ERISA. However, the subcommittee believes that Tolley International's performance demonstrates rather persuasively the need for insurance consultants to employee benefit plans to adhere to the standards of care and independence applicable to fiduciaries under ERISA. Because of their special expertise, insurance consultants exercise considerable influence on employee plan decisions.

Thus, the subcommittee recommends that the Department of Labor issue interpretive regulations which would specify that consultants selected by employee benefit plans to evaluate insurance matters are fiduciaries under ERISA whenever they render advice or related services that will be relied upon by the plan or otherwise be a significant factor in any decision or action by the plan. The subcommittee also urges the Department of Labor to issue interpretive regulations specifying the circumstances under which professionals and other persons proving specialized services to employee benefit plans will be considered fiduciaries.

The report also addresses a common method of compensating insurance consultants to employee benefit plans under which the consultant receives a commission paid by the plan's insurance company based upon a percentage of the aggregate premium payments. This method of compensation appears to be sanctioned by an exemption from ERISA granted by the Department of Labor. The subcommittee found that this method constitutes an irreconcilable conflict of interest, since a consultant would benefit from the award of a more expensive insurance plan. The subcommittee recommends that the Department repeal the exemption.

The report also notes the lack of adequate competitive bidding procedures by certain employee plans. In the Indiana laborers' fund case, one of the trustees unilaterally caused the rebidding of the fund's insurance program and permitted Hauser's representatives to prepare the bidding specifications. The subcommittee found this conduct to fall far short of the standards which an employee benefit plan should expect of its trustees.

The subcommittee also found that a contributing factor to Hauser's success in winning the Teamster's insurance contract was the failure of the fund trustees and other officials to assure that the contract was awarded strictly on the basis of sealed, timely bids and in strict conformity with the bid specifications and procedures. Our report points out that the Teamsters fund received an apparently late supplemental bid from Old Security, which offered to negotiate a reduction in its retention if relieved of the claims processing functions. The fund did not maintain a date and time receipt record, nor did it have a bid opening procedure designed to assure compliance with the deadline. In another supplemental bid, Old Security advised the fund of the amount of the reduction in its bid. This supplement was received well after the bid deadline and just one day before the trustees made the award to Old Security and accepted Old Security's supplemental proposal to be relieved of claims processing.

Old Security's suggestion that it be relieved of the claims processing deviated from the specifications, which required the carrier to perform this function. Moreover, the amount of the reduction in Old Security's bid was not negotiated by the fund's staff. Circumstances indicate that the reduction was worked out in discussions between Hauser and Allen Dorfman of Amalgamated Insurance Agency, which has been the Fund's claims processor for several years. The subcommittee found that Hauser's agreement to let Amalgamated process claims under the contract was one of the significant factors contributing to the award to Old Security.

Dorfman's involvement was contrary to fund policy, according to the testimony of Daniel Shannon, who was the fund's executive director at the time. Also, the specifications called for the winning insurer to process claims because Shannon wanted to remove this function from Amalgamated. Among the reasons Shannon gave for this position were difficulties the Fund had experienced in working with Amalgamated; "subservience" of the fund to Amalgamated; Amalgamated's solicitation of fund participants for the sale of add-on insurance; and Dorfman's 1972 conviction for accepting a kickback in connection with a transaction by Teamsters pension fund, a sister fund of the Teamsters health and welfare fund.

At the April 30, 1976, meeting at which the trustees awarded the contract to Old Security, the trustees did not ask obvious questions, such as whether all bidding companies were given an equal opportunity to reduce their bids if relieved of claims processing.

They did not ask what the basis of the reduction of Old Security's bid was. Nor did they question the discrepancy between two prior meeting agendas, which reported that Tolley International recommended the Prudential bid as the most attractive, and the Tolley International's recommendation at the April 30 meeting in favor of Old Security.

Contemporaneous with the award to Old Security, the Teamsters fund trustees granted Amalgamated a 10-year extension on the claims processing contract without soliciting competitors' bids, an action which was later rescinded upon advice of counsel.

At the subcommittee's November 1977 hearings, Dorfman cited his Fifth amendment privilege and declined to answer any questions about his involvement in the Old Security award or Amalgamated's role as the fund's claim processor.

Dorfman, who was first investigated by the subcommittee 20 years ago in connection with his ties to organized criminals and labor racketeers, is a longtime associate of Fitzsimmons. Four years before this meeting with Hauser, Dorfman had been found guilty of accepting a $55,000 kickback while serving as a consultant of the Teamsters Central State Pension Fund. Following Dorfman's conviction Fitzsimmons only removed him as consultant to the pension fund but took no action with respect to the Dorfman firm serving claims for the welfare fund. When asked to justify the inconsistency in positions with respect to Dorfman. Fitzsimmons said:

> It is like a horse that will bite one person but won't bite another one. As the report notes Fitzsimmons explanation demonstrates a marked insensitivity to his obligation to protect the Health and Welfare Fund from the risk of abuse attendant to retention of the services of a person who violated a position of trust and confidence with the sister Pension Fund.

Despite Dorfman's 1972 conviction, his contacts with Hauser in connection with the Old Security award, Shannon's opposition to doing business with Amalgamated, and Dorfman's refusal before the subcommittee account for his role in the Old Security award or as the Fund claims processor, the fund executed a 3-year contract with Amalgamated on January 31, 1979. The award was made after solicitation of bids from several insurance companies; however, the adequacy of the competitive bid procedures are being litigated in a suit against the fund trustees by the Department of Labor. Whatever the merits of the Labor Department suit, the subcommittee found that, the decision of the fund's trustees to continue to do business with Dorfman constitutes a highly questionable business judgment.

The record underscores the need for vigilance by employee benefit plan trustees and other fiduciaries, who have an obligation under ERISA to act prudently and, thus, to prevent overreaching by persons dealing with the plan. The subcommittee proposes that the Department of Labor adopt interpretive regulations setting forth the minimum standards that fiduciaries would have to meet in order to comply with the "prudent man" standard. The report states, among other things, that the regulations should require plan trustees to adopt written internal control and accountability procedures which are designed to prevent and detect fraud, breaches of fiduciary duty, and prohibited transactions. In this regard, the subcommittee recommends that these regulations require the adoption of competitive bidding procedures for purchases of insurance and other appropriate transactions, and that they emphasize the need for plan trustees to be watchful for deviations from established procedures and other irregularities. The subcommittee believes that the "prudent man" guidelines would complement our other recommendations and heighten the awareness of persons vested with responsibility for managing employee benefit plans as to what is required of them as fiduciaries.

The subcommittee's report also examines the Labor Department's actions relating to the October 1975 conviction of Bernard Rubin for embezzling $400,000 from union and union employee benefit plans. The Labor Department refused to act as a trustee or monitor of those unions and plans, as had been requested by the Department of Justice following Rubin's indictment and conviction. Also, the laborers' international union did not place the unions into trusteeships until 2 years later after the Justice Department had moved for revocation of Rubin's bond on the basis of evidence that Rubin had embezzled another $2 million of union and union trust funds. In this regard, the court of appeals stayed an order by the district court under the racketeer influenced and corrupt organizations (RICO) statute,

which required Rubin to forfeit his union and plan positions.

The subcommittee found that the Labor Department and laborers' international union failed to take timely action to protect the union and union employee plan assets from further looting of these assets. It also found the granting of the stay by the court of appeals, while apparently within the discretion of the court, created a substantial risk that the union and plan assets would not be adequately protected from a repetition of the kind of conduct for which Rubin was convicted.

The subcommittee also recommends legislation to provide that a union or employee official, who is subject to a RICO order requiring him to forfeit his position, shall be suspended from performing any functions if the order is stayed pending appeal. The subcommittee also recommends that the provisions of ERISA and the Labor Management Reporting and Disclosure Act (LMRDA) which disqualify a person convicted of certain crimes from holding positions with employee benefit plans and unions, respectively, be amended to provide for similar suspensions pending consideration of any appeal.

Another recommendation calls for expanding the disqualifying crimes under LMRDA pertaining to unions so that these LMRDA crimes will conform to the broader list of disqualifying crimes under ERISA, which pertains to employee benefit plans. The report also proposes legislation to make it clear that corporate and other entities which employ or are controlled by a disqualified person are subject to the disqualification provisions.

The subcommittee also proposes legislation specifically authorizing the Department of Justice to obtain preconviction restraints on union and employee plan officials who have been indicted for misusing union and plant assets. Another proposal calls for legislation to give the Department of Labor civil enforcement authority to seek remedies for breaches of fiduciary duty by union officials and other violations of title V of LMRDA.

The subcommittee also finds fault with the Department of Labor's recent response to a September 1978 GAO report which found serious deficiencies in the Department's criminal and civil enforcement programs. In its response, the Department asserts that it is committed to "aggressive" enforcement. However, it continues to disclaim responsibility for the initial detection and investigation of embezzlement or kickbacks relating to employee benefit plans, and to resist making effective use of field audits as investigative tools. The Department also fails even to acknowledge most of the serious deficiencies found by the GAO, including the lack of adequate manpower.

The subcommittee recommends legislation to clarify the Labor Department's criminal investigative responsibility. The subcommittee also urges the Department to promptly fill the remaining 8 of 90 positions it promised to assign to the Department of Justice Organized Crime Strike Forces. The subcommittee also asks the Department to reassess its position with respect to the GAO report and to submit a detailed report to the subcommittee within 60 days.

The need for the Labor Department to carry out a vigorous criminal and civil enforcement program cannot be emphasized too strongly. At stake are the billions of dollars of assets of labor organizations and pension and welfare plans which are contributed by millions of American workers. There can be no excuse for anything less than a total commitment by the Labor Department.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. CANNON. Mr. President, as in executive session, from the Committee on Commerce, Science, and Transportation, I report favorably sundry nominations in the Coast Guard, which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, the nominations will lie on the Secretary's desk.

(The nominations ordered to lie on the Secretary's desk appeared in the RECORD on November 6, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER:

S. 2037. A bill to establish a Commission to hear, determine, and pay claims against the United States for money damages for the injuries to individuals who contracted the Guillain-Barre Syndrome after receiving immunizations under the national swine flu immunization program, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 2038. A bill to preserve, protect, and maintain the original boundary stones of the Nation's Capital; to the Committee on Energy and Natural Resources.

By Mr. MAGNUSON:

S. 2039. A bill to amend the Congressional Budget Act of 1974 to limit the levels of total budget outlays contained in certain concurrent resolutions on the budget; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

By Mr. NELSON (for himself, Mr. HUDDLESTON, Mr. CULVER, Mr. BAUCUS, Mr. STEWART, and Mr. LEVIN):

S. 2040. A bill to amend the Small Business Act to increase assistance to small businesses in exporting; to the Select Committee on Small Business.

By Mr. MATHIAS:

S. 2041. A bill for the relief of Michael Whitlock; to the Committee on the Judiciary.

By Mr. BOREN:

S. 2042. A bill to establish a procedure for congressional review of all proposed agency rules, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MELCHER:

S. 2043. A bill to provide for research in the diagnosis, prevention and control of malignant tumors in domestic animals, poultry and wildlife; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TOWER:

S. 2044. A bill to amend the Interstate Commerce Act by repealing 49 U.S.C. 10729 dealing with incentive rates associated with capital investments; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 2045. A bill to provide for open meetings of the Judicial Conference of the United States and of each judicial council, public access to transcripts of meetings of the Judicial Conference of the United States and of each judicial council, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER:

S. 2037. A bill to establish a Commission to hear, determine, and pay claims against the United States for money damages for the injuries to individuals who contracted the Guillain-Barre Syndrome after receiving immunizations under the national swine flu immunization program, and for other purposes; to the Committee on Governmental Affairs.

GUILLAIN-BARRE SYNDROME COMPENSATION COMMISSION ACT

● Mr. DURENBERGER. Mr. President, I am pleased to join my colleague in the House of Representatives, Congressman ROMANO MAZZOLI, in introducing legislation which would establish a Commission to expeditiously adjudicate and settle the claims of those persons who contracted the Guillain-Barre Syndrome (GBS) as a result of participating in the national swine flu immunization program.

In 1976, the Federal Government undertook a massive immunization program to protect the American people from a feared epidemic of a rare strain of influenza known as the swine flu. Pursuant to this initiative, the Congress, at the administration's request, enacted the Swine Flu Act. This legislation made the Government liable for personal injury or deaths resulting from the program unless the manufacturers could be proved negligent in the production of the vaccine.

It is now 3 years later, and fortunately, the dreaded epidemic of the swine flu did not materialize. But, unfortunately, some Americans, who responded to the Government's request that everyone be immunized, became instead paralyzed, and in some cases even died, by a rare neurological ailment called GBS. Regrettably, despite the passage of the Swine Flu Act, most of these victims have not yet been compensated. Such inaction and insensitivity by the Government is unconscionable.

Mr. President, my legislation would establish a seven-member Commission to settle claims from the injuries and deaths of individuals who contracted GBS after receiving immunization in accordance with the national swine flu im-

munization program. This legislation stipulates that once a claim is filed, the Commission will have a maximum of 240 days in which to conduct hearings, make determinations, and award payments.

Some may argue that this relief measure will be too costly. I strongly disagree. First, I believe that the Commission will actually save the Federal Government money, for it would spare us the agony of expensive and protracted lawsuits if the claimants were forced to pursue their full legal remedies.

Second, I believe that if we do not act promptly and equitably, we could do incalculable future damage to our Nation. For failure to settle these claims undermines the good faith upon which any immunization program is based. And, if we lack that faith, we may remove the ability of the Government to obtain the cooperation of the public for any subsequent immunization program.

But, perhaps most importantly, the case for this legislation rests on grounds of fundamental fairness. In the law of the land we promised the American people that the U.S. Government would compensate them if the flu shots caused any damage. For some Americans, the damage has occurred. And we cannot now renege on our promise and refuse to compensate.

Mr. President, as many of my colleagues know, my chief legislative assistant—who did not have a flu shot—contracted GBS last February. Through his 7-month ordeal, I became aware of how virulent, painful, and debilitating the syndrome can be. It enrages me to think that there are hundreds of individuals in this country who have experienced similar or worse cases of GBS as a result of the immunization program and who have not yet been compensated and, indeed, have no immediate prospects for compensation. We must right this terrible wrong.

I ask my colleagues to support this important legislation and to help restore confidence in the words and in the actions of our Government.'

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Guillain-Barre Syndrome Compensation Commission Act".

ESTABLISHMENT

SEC. 2. There is established a commission to be known as the Guillain-Barre Syndrome Compensation Commission.

PURPOSE OF COMMISSION

SEC. 3. The purpose of the Commission is to fairly and expeditiously hear, determine, and pay claims against the United States for money damages for the injuries to individuals who contracted the Guillain-Barre Syndrome after receiving immunization pursuant to the swine flu program.

MEMBERSHIP

SEC. 4. (a)(1) The Commission shall be composed of seven members as follows:

(A) Three individuals who are doctors of medicine or osteopathy and who are authorized to practice medicine and surgery in one or more States, appointed by the Secretary.

(B) Four individuals who are not doctors of medicine or osteopathy, appointed by the Secretary.

(2) Appointments may be made under this subsection without regard to section 5311 (b) of title 5 of the United States Code.

(3) Members shall be appointed for the life of the Commission.

(b)(1) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) If any member of the Commission who was appointed to the Commission as a doctor of medicine or osteopathy loses the authorization to practice medicine and surgery in one or more States, or if any member of the Commission who was appointed from individuals who are not doctors of medicine or osteopathy becomes a doctor of medicine or osteopathy, such member may continue as a member of the Commission for not longer than the 30-day period beginning on the date such member loses such authorization or becomes a doctor, as the case may be.

(c)(1) Except as provided in paragraph (2), each member of the Commission shall be entitled to receive the daily equivalent of the maximum annual rate of basic pay in effect from time to time for grade GS–18 of the General Schedule for each day (including travel time) during which such member is engaged in the actual performance of the duties of the Commission.

(2) Members of the Commission who are full-time employees or appointed or elected officials of the United States shall receive no additional pay by reason of their service on the Commission.

(d) Five members of the Commission shall constitute a quorum of purposes of conducting the business of the Commission.

(e) The Chairperson and Vice-Chairperson of the Commission shall be designated by the Secretary.

DIRECTOR AND STAFF OF COMMISSION

SEC. 5. (a) The Commission shall, without regard to section 5311(b) of title 5 of the United States Code, have a Director who shall be appointed by the Commission and who shall be paid at the minimum annual rate of basic pay in effect from time to time for grade GS–18 of the General Schedule.

(b) The Chairperson may appoint such staff as such Chairperson considers appropriate and shall fix the pay of the staff.

(c) The Director and staff of the Commission may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, respectively.

(d) The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, at rates not to exceed the daily equivalent of the minimum annual rate of basic pay in effect from time to time for grade GS–18 of the General Schedule.

(e) Upon request of the Commission, the head of any agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

DUTIES AND POWERS OF THE COMMISSION

SEC. 6. (a) The Commission shall hold hearings at such times and places as are necessary to carry out this Act.

(b)(1) The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to the liability of the United States for damages to a claimant under this Act. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a district court of the United States under the Federal Rules of Civil Procedure.

(4) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(c) The Chairperson of the Commission may secure directly from any agency of the United States information necessary to enable it to carry out this Act, except that the Commission may not secure information which is exempted from disclosure under section 552(b) of title 5 of the United States Code.

PROCEDURE FOR CLAIMS, HEARINGS, DETERMINATIONS, AND PAYMENTS

SEC. 7. (a) Any claim for relief under this Act shall be submitted in writing to the Commission within twelve months after the date of enactment of this Act.

(b) Within 120 days after the date that the Commission receives a claim for relief under subsection (a), the Commission shall hold a hearing to (1) determine, under the standards set forth in subsection (c), whether a claimant is eligible for damages under this Act, and (2) determine the amount of any damages that a claimant is due under this Act.

(c) A claimant is eligible for damages under this Act if the Commission determines that—

(1) the claimant filed a timely claim for damages under this Act;

(2) the claimant contracted Guillain-Barre Syndrome within 20 weeks after receiving an immunization in accordance with the swine flu program; and

(3) the claimant has not received an award in full settlement of the claims of such claimant against the United States with respect to injuries arising out of the swine flu program.

(d) Within 60 days after the conclusion of a hearing on a claim relief, the Commission shall make its determinations with respect to the eligibility of the claimant and the amount of any damages due.

(e)(1) Within 60 days after the date of its determinations under subsection (d), the Commission shall pay to the claimant the amount of any damages due such claimant under such determination.

(2) Any payment to a claimant under this section shall be in full settlement of all claims of such claimant against the United States arising out of the swine flu program.

REPORT

SEC. 8. The Commission shall transmit to the President and to each House of the Congress such interim reports as the Commission considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than three years after the date of enactment of this Act. Each report shall contain a detailed summary of the determinations of the Commission which were based on hear-

ings conducted pursuant to this Act, the amount of damages paid pursuant to this Act, and any recommendations which the Commission may have for legislative or administrative action.

TERMINATION

SEC. 9. The Commission shall cease to exist on the date designated by the Secretary as the date on which the work of the Commission has been completed.

DEFINITIONS

SEC. 10. For the purpose of this Act—

(1) "agency" has the meaning given such term in section 5551(1) of title 5 of the United States Code;

(2) "Commission" means the Guillain-Barre Syndrome Compensation Commission;

(3) "Secretary" means the Secretary of Health and Human Services; and

(4) "swine flu program" means the National Swine Flu Immunization Program of 1976 (42 U.S.C. 247b).●

By Mr. MATHIAS:

S. 2038. A bill to preserve, protect, and maintain the original boundary stones of the Nation's Capital; to the Committee on Energy and Natural Resources.

NATIONAL CAPITAL BOUNDARY STONES ACT

● Mr. MATHIAS. Mr. President, the question of a permanent site for the national seat of Government was debated by Congress from 1783 until 1791. In that year, President Washington signed into law an amendment to the Residence Act of 1790 expanding the site of the Nation's Capital to include the eastern shore of the eastern branch of the Anacostia River and including the Port of Alexandria, Va.

The site of our Nation's Capital was, thus, finally determined—a 100-square mile district, with boundary lines 10 miles on each of its four sides.

Perhaps because they feared the decision on a permanent site would somehow be abrogated, President Washington and Secretary of State Thomas Jefferson wasted no time in engaging a surveyor as well as private individuals to begin quietly purchasing property on behalf of the Government.

To survey and mark the boundaries of the new District of Columbia, Mr. Jefferson immediately commissioned Maj. Andrew Ellicott of Philadelphia.

Ellicott was a well-known surveyor possessing some of the most advanced surveying instruments in the United States at that time. Most of those instruments are now housed in the Smithsonian Institution.

Ellicott accepted the commission and quickly began looking for an assistant to make the astronomical observations upon which the survey lines and markers would be based. He turned to Benjamin Banneker, a free black man who was a friend and neighbor of his cousin in Ellicott Mills, Md.

Banneker, a self-taught astronomer, was over 60 at the time. He readily agreed to make the astronomical observations for the south corner stone while Ellicott and field crews did the actual surveying. Between February and April of 1791, Banneker made observations and mathematical calculations upon which the first stone marker was placed at Jones Point on the Potomac River in Alexandria, Va. Ill health forced him to return home in April.

Ellicott completed the survey and setting of markers—40 in all—by January 1793.

The 39-year-old surveyor described the marker stones, which were of sandstone quarried at Acquia, Va., as follows:

Lines are opened and cleared forty feet wide that is twenty feet on each side of the lines limiting the Territory, and in order to perpetuate the work I have set up square mile stones marked progressively with the number of miles from the beginning on Jones' Point to the West corner thence from the West corner to the North corner to the East corner and from thence to the place of beginning on Jones' Point; except in a few cases where the miles terminated on declivities or in waters; the stones are then placed on the first firm ground, and their true distances in miles and poles marked on them. On the sides of the stones facing the Territory is inscribed, "Jurisdiction of the United States." On the opposite side of those placed in the commonwealth of Virginia is inscribed "Virginia." And on those in the State of Maryland, "Maryland." On the third and fourth sides, or faces, inscribed the year in which the stone was set up, and the conditions of the Magnetic Needle at that place.

Those sandstone markers are now 186 years old. They have fallen on hard times with no one really charged with their maintenance and upkeep. Yet they are important testimonials to the history of the founding of the Nation's Capital, the work of Andrew Ellicott and Benjamin Banneker and the history of early surveying and civil engineering in the United States.

The stones are category II landmarks designated by the Joint Committee on Landmarks of the Nation's Capital. This local designation means they should be preserved or restored, if possible. They are not, however, on the National Register of Historic Places although I understand the State historic preservation officers of the District of Columbia and Virginia are prepared to nominate them to the register.

In 1914, a committee of the District of Columbia Daughters of the American Revolution set about reclaiming the boundary markers. Over the course of the following 3 years, members of the DAR once again located the stones, secured "deeds" from affected property owners to place a fence, installed protective iron fences around them, marked them with a bronze plaque, and assigned continued maintenance responsibility for each stone to one of its chapters.

Were it not for this pioneering preservation effort by the Daughters of the American Revolution, it is very likely the boundary stones of the Nation's Capital would not have survived to today. But development, traffic, remote locations, and vandalism have all taken their toll. The DAR, while as committed as ever to continuing its stewardship role, can no longer assume the financial and personal burden necessary to assure the maintenance of these stones.

Thanks to the efforts of the National Capital section of the American Society of Civil Engineers, in cooperation with the DAR, and the National Capital Planning Commission, a conditions report was prepared on the stone markers as a bicentennial project.

That report titled, "Boundary Markers of the Nation's Capital: A Proposal for Their Preservation and Protection" is a careful history of the survey of the District of Columbia and the current status of the markers .

There are several stones overgrown with weeds; a few are missing; some have been relocated; some badly weathered. Yet others are well cared for by concerned citizens.

There is a clear need to fix responsibility for the stones and their protection and maintenance. It is with this purpose in mind that I am introducing legislation today that assigns responsibility for the preservation, protection, and maintenance of the boundary stones to the National Park Service. Such continuing maintenance needs are to be identified by the District of Columbia Daughters of the American Revolution and reported directly to the National Park Service Director for appropriate action. This arrangement, I believe, will continue the DAR's stewardship of those important historic markers and assure their continued maintenance.

A rough estimate of costs for surveying the stones, preparing a conditions report, and preparing a relocation, replacement and marker plan is $40,000 according to the National Capital section of the Society of Civil Engineers. They estimate that capital costs to replace protective fences, replace DAR markers, clean and protectively coat the stones against weathering, and trim the immediate area around those stones now neglected is $200,000. Once these initial costs have been borne, annual upkeep should be about $20,000.

The second purpose of my bill is to assure recognition for the two original surveyors of the Nation's Capital, and the history of their survey, its instruments and techniques. As I noted earlier, many of Andrew Ellicott's surveying instruments are held by the Smithsonian Institution. My bill directs the National Park Service in coordination with the Smithsonian to develop such a display, which I hope would be in one of the Smithsonian museums.

Mr. President, too often we find ourselves mourning the loss of some significant historical feature of our Nation. The boundary markers of the Nation's Capital are such endangered monuments of the history of the Federal City. Despite rather overwhelming odds these markers have survived 186 years. With just a little bit of care, they can be assured of preservation for decades to come.

Mr. President, I ask unanimous consent that several letters supporting the purposes of this legislation, together with the text of the bill, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2038

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That this Act may be cited as the "National Capital Boundary Stones Act."

SEC. 2. (a) Congress finds that because of the deteriorating condition and neglect of the forty original boundary stones delimiting the ten mile square first set aside by the State of Maryland and the Commonwealth of Virginia as the "seat of government of the United States", there is a need to provide for the preservation, protection, and maintenance of such stones.

(b) The purposes of this Act are to—

(1) assign responsibility for the preservation, protection, and maintenance of the boundary stones;

(2) assure perpetuity of these important historic boundary stones for future generations of Americans to view and enjoy;

(3) provide an adequate mechanism for ensuring that the boundary stones are protected and maintained; and

(4) to make available to the public information, data, and items involving or pertaining to the history of the original survey of the Nation's Capital, including the surveyors, and the instruments and techniques used in connection therewith.

SEC. 3. (a) The Secretary of the Interior, acting through the National Park Service, shall have the responsibility for the preservation, protection, and maintenance of the boundary stones referred to in section 2 of this Act.

(b) Within the twelve month period following the date of the enactment of this Act, the Director of the National Park Service shall prepare and submit to the Secretary for his approval a program for preserving, protecting, and maintaining such boundary stones. Such program shall include—

(1) a location and condition survey of each corner stone and boundary stone, conducted in consultation with the District of Columbia Daughters of the American Revolution, which shall be referenced to the appropriate State Plane Grid Coordinate System with appropriate ties to property lines and which shall provide for the results to be shown on plats of survey in such form as may be suitable for recording purposes;

(2) with respect to each boundary stone located at each of the four cardinal points of the compass at the corners of the ten mile square delineating the original site of the Nation's Capital a plan for preserving, protecting, and maintaining such corner stones;

(3) with respect to each of the other boundary stones, a plan to preserve, protect, and maintain each such boundary stone;

(4) a relocation, replacement, and marker plan for those boundary stones which have been moved or which are missing or which cannot be placed in the original location;

(5) alternative plans for the long-term care, protection, and maintenance of the boundary stones which may include agreements among private individuals, the Federal Government, local governments of areas within the State of Maryland or the Commonwealth of Virginia within which such boundary stones are located, and the governments of the State of Maryland, the Commonwealth of Virginia, and the District of Columbia;

(6) a schedule and financial plan for providing such preservation, protection, and maintenance of such boundary stones; and

(7) in coordination with the Smithsonian Institution, a plan setting forth a display on the history of the survey of the District of Columbia conducted during the years 1791 and 1792, the original surveyors, the instruments and techniques used by such surveyors in conducting the survey of the District of Columbia, and surveying methods and techniques currently in use.

(c) Within the twenty-four month period following the date of the approval by the Secretary of the Interior of the program pursuant to subsection (b) of this section, the Secretary of the Interior, acting through the National Park Service, shall, in consultation with the District of Columbia Daughters of the American Revolution, implement such program and provide for the preservation, protection, and maintenance of such boundary stones.

SEC. 4. In carrying out the program approved pursuant to section 3 of this Act, the Secretary of the Interior is authorized to acquire, by donation, purchase with appropriated or donated funds, exchange, or condemnation, such lands and interests therein (including easements), together with improvements thereon, as may be necessary to carry out such program.

SEC. 5. Whoever willfully damages or removes any boundary stone referred to in this Act shall be fined not more than $500, or imprisoned not more than six months, or both.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

Mr. CHARLES CONRAD,
Executive Director, National Capital Planning Commission, Washington, D.C.

DEAR MR. CONRAD: We are pleased to comment on the revised publication entitled "Boundary Markers of the Nation's Capital" a proposal for their preservation and protection prepared by the staff of the Commission. We applaud the document and look forward to your continued leadership in assuring that these historic properties receive appropriate preservation.

The National Park Service strongly supports the preservation of the stones for their historical value to the Nation's Capital. We believe that this office, with the necessary legislative authority, could assume this responsibility and provide for the continued preservation and interpretation of the stones subject to appropriated funds.

We are pleased to offer the following comments on the recommendations in order form.

1. We concur with the concept that the stones should be in the ownership of the U.S. Government. However, some of the stones are located within private residential homesites. Thus, we do not agree that access for public viewing of the stones should be a mandatory requirement. Possibly easement for maintenance may be in order in these cases.

2. We support the recommendation of placing the stones on the National Register of Historic Places.

3. We feel that a special Office of the Keeper of the Boundary Stones is not necessary. However, we recommend that the responsibility for the care of the stones be clearly identified through the legislative process. The National Capital Region could assume this responsibility pursuant to legislation. We would be happy to work with the staff of the Commission on a legislative proposal.

4. Additional lands must be identified and funds appropriated in order to implement the recommendation that four Cornerstone Parks be created. Presumably, these parks would be contained in the legislative proposal.

5. The subject of the future use of the lighthouse at Jones Point should be left open for future planning discussion between National Capital Planning Commission and the National Park Service.

6. We concur in this recommendation.
7. We concur in this recommendation.
8. We concur in this recommendation.
9. We concur in this recommendation.
10. We concur in this recommendation.

The National Park Service looks forward to working with you and your staff on this project.

Sincerely yours,

JACK FISH,
Regional Director,
National Capital Region.

SMITHSONIAN INSTITUTION,
Washington, D.C., August 15, 1979.

Mr. MARTIN J. RODY,
Assistant Director, Special Projects Branch, National Capital Planning Commission, Washington, D.C.

DEAR MR. RODY: Although I had reviewed the attractively produced Boundary Stone Report some time ago, I failed to submit my comments before departure on extended absence outside the country. I am including them herewith in the event that they are still of interest.

The boundary stones and mile markers of the ten-mile square should become the property of the U.S. Government and placed under the care of an appropriate agency, such as the U.S. Park Service. The agency responsible for them should also be able to physically care for the stones with its own staff. It probably would be necessary to have an appropriate agreement with the District of Columbia, and the states of Maryland and Virginia before transfer to the U.S. Government can be achieved. Such a plan would completely eliminate any role in the project for the Daughters of the American Revolution.

It will be necessary to distinguish between care of or ownership of the stones themselves, and that of the land on which they are. Therefore, a first step will be to review the history of the land on which the stones are found, particularly that which is now private property. If indeed the stones are located precisely on, or by today's survey near, the boundary line between D.C. and the two states, the problem may be complex. Thus, it may be desirable to treat stones on public versus private property separately.

STONES ON PUBLIC PROPERTY

These stones, which include at least 28 of the total of 40 stones and a small portion of the land on which they are situated should become the property of an appropriate U.S. agency. The land involved might be as small as three feet square.

Wherever possible and practical, the stones should be restored. Where the stone has deteriorated beyond recognition it should be replaced with a replica. A protective barrier, similar to those erected by the DAR earlier in this century, would be appropriate, together with a label at each site describing the stone and its significance. As feasible, each of the markers should be retrevened to its original site, or as close to the actual location as possible.

STONE ON PRIVATE PROPERTY

Although it may not be difficult to obtain U.S. government control of the physical stones, it is not clear at this time whether control of a small parcel of land on which the stones are situated could ever become the property of the U.S. government. The stones themselves should be restored or replaced as noted for those on public property.

It may be necessary to develop individual agreements with each of the owners of private property concerning the erection of erecting a protective barrier and concerning access.

It would be eminently desirable to establish a park at one of the four corners of the original ten-mile square. One would be adequate. The south stone site at the Jone's Point lighthouse seems to be the most desirable location because of it prime role as the starting point of the survey and the site

of Andrew Ellicott's base camp during the first phase of the boundary survey. Additionally, this site is already a park, on ground set aside for this purpose, and furthermore has a lighthouse structure of local and historical interest.

However, the South stone should be moved back from the water's edge to a safer location, with a replica on the actual site. Attractive outdoor displays could easily be erected to tell the history of the boundary markers.

Careful thought must be given to the practicality of establishing a museum facility at this location, or of converting the lighthouse to a museum. Although there is merit in having such a facility to preserve and display objects and documents associated with the boundary story, the physical location of a museum at any one of the four corner points removes it from proximity with local monuments and other national attractions by at least several miles, and the ratio of full-time museum staff required to the number of annual visitors may not be economically feasible. Of the four corners however, the South point remains the most desirable location for a museum, and its situation along the route between Washington, Alexandria and Mount Vernon is a factor in its favor.

One stone marker which is in good condition should be transferred to the Smithsonian or the Capital Park Service for preservation and display. The National Park Service operates a number of museum-type sites in the Washington area, and if they are to have the responsibility for maintaining the stones and their sites, it should be possible to include exhibits about the boundary surveys, including objects, into one of the museum locations currently under their jurisdiction, to supplement the outdoor displays at Jones' Point.

It is recommended that all stones, that are removed from the ground as fragments thereof, be preserved even if the stone is not totally recognizable.

Any preservative steps taken to maintain the markers in site should be done only after consultation with experienced experts. The Conservation-Analytical Laboratory of the Smithsonian Institution is available for consultation to provide information for this and other aspects of preservation.

There appears to be no justification for establishing a separate agency or organization to oversee the preservation and maintenance of the boundary markers. This function appears to be clearly within the jurisdiction of the National Capital Park Service. The inclusion of all the stone markers in the National Register of Historic Places is eminently desirable, and should be pursued as soon as feasible.

Sincerely,

SILVIO A. BEDINI,
Deputy Director.

THE COMMISSION OF FINE ARTS,
Washington, April 12, 1977.

Hon. DAVID M. CHILDS,
Chairman, National Capital Planning Commission, Washington, D.C.

DEAR MR. CHILDS: The Commission of Fine Arts reviewed the draft National Capital Planning Commission report on District of Columbia boundary markers. In his presentation to the Commission, Mr. Rody pointed out the historical significance of these very special monuments of the Washington plan. The Commission generally approves the concept of protecting them and establishing cornerstone parks and treating the intermediate stones with some degree of protection. We particularly endorse the preservation of the Jones Point Lighthouse and park as one of the elements of the program and hope that the conditions on this site can receive the immediate attention they deserve. Though we realize the Planning Commission recommendations may take some time to implement, the Commission of Fine Arts hopes to assist you with design-related matters as the project moves forward.

Sincerely yours,

J. CARTER BROWN,
Chairman.

BOUNDARY MARKERS OF THE NATION'S CAPITAL, A PROPOSAL FOR THEIR PRESERVATION AND PROTECTION

(Report of the Joint Committee on Landmarks, April 21, 1977)

The Joint Committee is pleased to have the opportunity to review and comment on this handsome and informative report on the Boundary Stones of the District of Columbia, a Category II Landmark of the National Capital.

The Joint Committee is in general agreement with Recommendations Nos. 1 through 6 and 10, and particularly supports the proposed preservation and use of the Jones Point Lighthouse, a Category II Landmark of the National Capital.

The Committee is concerned by the proposals in Recommendations Nos. 7 and 8 that the best preserved marker (Southeast No. 6) be removed and given to the Smithsonian and that other damaged stones be replaced by duplicates. The Department of the Interior's regulations state that National Register properties "should be moved only when there is no feasible alternative for preservation. When a property is moved, every effort should be made to reestablish its historic orientation, immediate setting and general environment." Unless the National Park Service is convinced that the property's historical integrity has not been destroyed by the move, the property will be deleted from the National Register. In view of the fact that the significance of the Boundary Stones is based almost entirely on their location the Committee recommends that every possible alternative to moving any of the markers from its original site be meticulously explored.

The Joint Committee is also concerned by the proposal in Recommendation No. 9 that the markers be treated with a protective coating. While the Committee agrees that every effort should be made to preserve the markers in situ and to protect them from further deterioration, it feels that great care must be used in choosing a method of treatment. The Committee recommends that a professional conservator with expertise in the preservation of stone surfaces be consulted before any such action is taken. The Committee further recommends that alternative means of in situ preservation be explored.

AMERICAN SOCIETY OF CIVIL ENGINEERS,
Washington, D.C., April 4, 1977.

Mr. CHARLES H. CONRAD,
Executive Director, National Capital Planning Commission, Washington, D.C.

DEAR MR. CONRAD: I want to express appreciation, on behalf of the officers and Board of Directors of the National Capital Section, ASCE, and of our Bicentennial Committee, for distributing with your memorandum of January 17th the copies of the Commission's report on the "Boundary Markers of the Nation's Capital."

This report, both as to its format and substance, has been very well received by our membership and is a commendable production. Also, we have taken especial pleasure in reviewing it, for, as you will recall, it was at the instigation of our Bicentennial Committee that the National Capital Section wrote on August 18, 1975 urging the National Capital Planning Commission to take the lead in developing recommendations for the preservation of the boundary stone markers.

I am now pleased to advise that our Board of Directors at its March meeting resolved to support the Commission's recommendations and further to recommend that a draft of legislation be prepared to establish federal jurisdiction and implement the report's ten recommendations. Our representatives are available to cooperate in this drafting process at your convenience.

Sincerely,

L. G. BYRD,
President.

AMERICAN SOCIETY
OF CIVIL ENGINEERS,
Washington, D.C., September 18, 1979.

Senator CHARLES M. MATHIAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: The Nation's Capital is truly a city that is unique to the history and heritage of our nation. It was established in 1789 as the Seat of Government and actually marked on the ground in 1792 by the placement of sandstone monuments.

The area so marked formed a ten mile square parcel of land which was ceded to the United States by the State of Maryland and the Commonwealth of Virginia. Subsequently that portion ceded by Virginia was returned, but not before the stone markers had been placed. There were 40 stones installed and most of these still remain today.

Although they no longer serve as critical survey points, they do however serve as physical reminders of a significant part of our Nation's history and heritage. They remind us too of the work done by Benjamin Banneker and Andrew Ellicott in placing them. These stones should be protected and preserved for this and future generations, we believe.

The National Capital Section, after having worked with the staff of the National Capital Planning Commission and the Daughters of the American Revolution is of the opinion that the initiation of appropriate legislative action in the Congress could substantially enhance the establishment of a program of protection and preservation. With respect to this we have prepared and are enclosing A Prospectus For Preserving the Boundary Stone Markers of the District of Columbia.

This prospectus sets forth, in greater detail, background and support for legislation. There is also enclosed, as an attachment to the prospectus, draft legislation which would define an overall legal and formal responsibility for the stones as well as for the development of a program. The introduction of an appropriate bill would significantly aid in assuring the preservation and protection of these historical markers.

While you may note that the prospectus has been prepared by our Committee on History and Heritage, it has also been unanimously approved by our Board of Directors on September 11, 1979. We appreciate, therefore, the opportunity of furnishing you with this prospectus and for any support which you may find appropriate respecting this legislative need.

Sincerely,

WALLACE J. COHEN,
President.

Enclosure.

DISTRICT OF COLUMBIA
DAUGHTERS OF THE
AMERICAN REVOLUTION,
Washington, D.C., September 15, 1977.

Mr. MARTIN J. RODY,
Office of Special Projects,
National Capital Planning Commission,
Washington, D.C.

DEAR MR. RODY: Enclosed is a copy of the Resolution concerning the Federal City

Boundary Stones which was passed on March 1, 1977 at the State Conference of the District of Columbia Society of the Daughters of the American Revolution.

Please let me know if I should send copies to any one else.

The District of Columbia Society DAR appreciates your great help in having the Boundary Stone book printed. It has been well received by the members.

Sincerely,

MRS. ARTHUR EDMON BBOWN.

RESOLUTION

Whereas the District of Columbia Daughters of the American Revolution was designated by the United States Government in 1914 as Steward of the Boundary Stones of the Federal City with supervision shared with Governmental Agencies; and

Whereas maintenance of these stones has been a heavy financial burden, and stones are placed on a long boundary and the often in areas difficult or dangerous to reach; and

Whereas after study, the National Capital Planning Commission has recommended that an Agency be created for maintenance of the stones and appropriate park areas, with Stewardship vested in the District of Columbia Daughters of the American Revolution, which is to make annual inspections and reports;

Resolved that the District of Columbia Daughters of the American Revolution cooperate with the National Capital Planning Commission in implementing the ten recommendations as set forth in the booklet entitled "Boundary Markers of the Nation's Capital"; and

Resolved that the District of Columbia Daughters of the American Revolution continue the care and stewardship of these important historic markers.

The above resolution was adopted at the 76th D.C. DAR State Conference, March 1, 1977.

WASHINGTON, D.C.,
September 5, 1978.

Mr. MARTIN J. RODY,
Assistant Director, Special Projects Branch, National Capital Planning Commission, Washington, D.C.

DEAR MR. RODY: Thank you for sending the Draft of a Bill to preserve the District of Columbia Boundary Stones. You are to be commended on your effort to preserve these historical markers. I sincerely appreciate your help in securing the printing of the Bicentennial book on the stones.

I continue to be terribly interested in the preservation of the Boundary Stones even though the present District of Columbia State Historian is now responsible for the Daughters of the American Revolution's care of the stones. The following are the names and addresses of the State Regent and the State Historian:

Miss Alice H. Wilson—D.C. State Regent—telephone 894-9049, 2118 Gaither Street, Hillcrest Heights, Maryland 20031.

Mrs. Richard Powell Taylor—D.C. State Historian—telephone 983-1999, 8801 Belmart Road, Potomac, Maryland 20854.

Again, sincere thanks for your assistance during the Bicentennial years.

Cordially,

MRS. ARTHUR EDMON BROWN.

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION,
Silver Spring, Md. March, 11, 1977.

RE: File No. 1502

Mr. CHARLES H. CONRAD,
Executive Director,
National Capital Planning Commission,
Washington, D.C.

DEAR MR. CONRAD: At our regular meeting held on March 10, 1977, the Montgomery County Planning Board reviewed your recently published report "Boundary Markers of the Nation's Capital."

As you requested we are reacting to the tentative recommendations of the National Capital Planning Commission beginning on page 31 of your report. Our Board approved the recommendations contained in the attached staff report for transmittal to your Commission.

We thought your report was very informative and well done.

Sincerely,

ROYCE HANSON,
Chairman.

MEMORANDUM

To: Montgomery County Planning Board.
From: Community Planning Staffs.
Re: Mandatory Referral from the National Capital Planning Commission re Boundary Markers Preservation and Protection.

NATURE OF REFERRAL

The National Capital Planning Commission (NCPC) approved the circulation of a report, "Boundary Markers of the Nation's Capital—A Proposal for their Preservation and Protection." NCPC has invited comments and suggestions on the report which gives the history and background of the boundary stones and explains the present status of the stones and the problems now faced.

A background report provides a very informative review of the activities leading up to the selection of the present site of the District of Columbia as the Nation's Capital. It relates the state of surveying technology in the 1790's and the fact that Andrew Ellicott was engaged, along with a free black mathematician, Benjamin Banneker, to survey the 10-mile square Federal territory.

There has been a gradual deterioration of the boundary stones which were placed at each of the four corners and at each mile along the sides. Many have been buried or destroyed. In 1915 the Daughters of the American Revolution undertook to fence and preserve the stones but further effort on the part of the public is now felt to be necessary to preserve and protect the stones. The NCPC report is an attempt to create a public awareness of the problem and to suggest some actions to be taken.

COMMENTS ON NCPC RECOMMENDATIONS

Following are the general recommendations of NCPC and our staff reactions to them:

NCPC SUGGESTED RECOMMENDATIONS	MCPB STAFF RECOMMENDATIONS
1. All boundary stones should be in the ownership of the U.S. Government.	Agree.
2. The boundary stones should be placed on the National Register of Historic Places.	While they do have historic interest, the bounary stones should not rank with buildings where historic events occurred and which have architectural merit. They should retain the Category II Landmark designation.
3. An appropriate land managing agency or agencies should be given specific responsibility for the preservation and maintenance of the boundary stones and fences. An "Offices of the Keeper of the Boundary Stones" should be created.	Rather than create a new office or agency, the National Park Service should be assigned responsibility for the boundary stones.
4. A "Cornerstone Park" should be created at each of the four cornerstone markers.	This would be especially appropriate for the North Cornerstone which lies just off East-West Highway in the west portion of Silver Spring at the western extremity of the Falkland apartment complex. Subject to consideration of safety, a highway turnoff should be considered. An historical marker sign with explanatory text would be helpful to the visiting public. Ultimately a bikeway might provide additional access.
5. Create a "Boundary Stone Museum" at the lighthouse at Jones Point in Alexandria, Virginia, site of the South Boundary Stone.	We agree with the general concept but raise a concern over the annual cost of maintaining what would amount to a limited-purpose visitor center which is in an unprominent location. Instead, we suggest that an exhibit be added to the Smithsonian's Museum of History and Technology current display on surveying the National Capital.
6. For historical integrity, all boundary markers that have been moved should, if possible, be placed in their original location. Otherwise, plagues should indicate relocations.	Agree.
7. One of the mile markers should be acquired by the Smithsonian Institution for permanent preservation (probably S.E. No. 6).	Agree: It could be part of the display recommended in our comment on item 5 above.
8. Each of the missing, badly decayed stones, or broken stumps should be replaced.	Agree.
9. All of the stones should be treated with a protective coating.	Agree.
10. The DAR's role in the stewardship of these monuments should be continued.	Agree.

RECOMMENDATIONS

The Planning Board should approve the above comments for transmittal to NCPC.

THE MARYLAND HISTORICAL TRUST,
Annapolis, Md., February 3, 1977.
Attention: Mr. M. J. Rody.
Re: NCPC File No. 1502.
NATIONAL CAPITAL PLANNING COMMISSION.
G Street, NW.,
Washington, D.C.

DEAR MR. RODY: Please accept the thanks of the Maryland Historical Trust for the copy of "Boundary Markers of the Nation's Capital", (National Capital Planning Commission, Summer 1976), an attractive publication.

The Maryland State Historic Preservation office is ready to cooperate with the nomination of the boundary stones to the National Register Historic Places. In fact, I had thought the National Capital Planning Commission staff had prepared such a nomination several years ago.

The recommendations for preservation on the whole, seem sound. I do wonder why a separate, new federal agency was suggested as a custodian. I feel an existing agency could handle the responsibility.

Sincerely,

JOHN N. PEARCE,
State Historic Preservation Owner.

COUNTY OF FAIRFAX,
Fairfax, Va., February 11, 1977.
MR. CHARLES H. CONRAD,
Executive Director,
National Capital Planning Commission,
Washington, D.C.

DEAR CHARLIE: The Office of Comprehensive Planning has reviewed your report, Boundary Markers of the Nation's Capital—A Proposal for Their Preservation & Protection. We make the following comments and recommendations:

1. Since some of these stones are in privately owned yards on suburban streets, it will be difficult, and perhaps undesirable, to assure public access to all the stones. Perhaps all the stones should be publicly owned, but visitors should be directed to concentrate on certain selected stones, such as the proposed cornerstone parks.

2. This office would be happy to cooperate in preparation of a nomination to the National Register if that would be desirable. (We have already prepared inventory forms on the stones listed in Fairfax County.)

This office endorses the remaining recommendations.

We appreciate the opportunity to have commented on this report.

Sincerely yours,

D. WAYNE PUMPHREY,
Acting Director.

COMMITTEE OF 100 ON THE FEDERAL CITY,
Washington, D.C., September 21, 1979.
Hon. CHARLES MATHIAS,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: When you spoke to the Committee of 100 last June, you indicated you would consider introducing legislation to provide for the preservation of the original boundary stones marking the boundaries of the District of Columbia in 1792.

We understand that a draft of such legislation with supporting documentation has been completed recently by the American Society of Civil Engineers in cooperation with the National Capital Planning Commission and is now presented for your consideration.

At its meeting of September 20, the Committee of 100 voted to support this proposal and advise you on its interest in seeing that the legislation was introduced and approved by the Congress at an early date.

Sincerely,

MRS. JAMES H. ROWE, JR.,
Chairman.

COMMONWEALTH OF VIRGINIA,
Richmond, Va., October 10, 1979.
Re: D. C. Boundary Stones, Fairfax County
Mr. Marion Morris
Legislative Assistant
Senator Charles McC. Mathias, Jr.
358 Russell Senate Office Building
Washington, D.C. 20510

DEAR MR. MORRIS: Thank you for sending the information on the D.C. Boundary Stones. The stones are a remarkable series of landmarks and I fully support the bill to guarantee their preservation. I trust you will keep me informed of action on the legislation and its implementation.

It is gratifying to know of Congress's interest in this matter.

With best wishes, I am

Sincerely,

TUCKER HILL,
Executive Director.

THE LEAGUE OF AMERICAN WHEELMEN, INC.,
Arlington, Va., January 30, 1977.
Re: NCPC File No. 1502
Mr. M. J. RODY,
N.C.P.C.
G Street NW.,
Washington, D.C.

DEAR MR. RODY: I find the boundary marker report to be excellent; a first class effort.

On page 27, picture No. 2 refers to S.W.–3 as an example of neglect. On page 28, SW–3 is said to be in good condition.

That's a minor comment; I'm proud of the report and I think N.C.P.C. did a terrific job.

Sincerely,

ALAN HIERKSEN.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
Washington, D.C., November 26, 1979.
Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: It has come to our attention that you plan to introduce legislation to insure the preservation and maintenance of the remaining markers placed in the 18th century to identify the boundaries of the District of Columbia.

Mr. Robert L. Moore, the State Historic Preservation Officer for the District of Columbia, supports the proposed nomination of the boundary markers to the National Register of Historic Places. A copy of a report from Mr. Moore is enclosed.

We are ready to cooperate with the Maryland and Virginia State Historic Preservation Officers and the National Capital Planning Commission to find a workable solution to the preservation and maintenance of the boundary markers.

We appreciate your leadership in this matter.

Sincerely yours,

BARBARA C. WASHINGTON,
Assistant City Administrator
for Intergovernmental Relations.

MEMORANDUM

To: Barbara Washington, Assistant City Administrator for Intergovernmental Affairs.

From: Robert L. Moore, State Historic Preservation Officer for the District of Columbia.

Subject: Preservation of the Original Boundary Markers of the District of Columbia.

It has come to my attention that there is growing concern and interest in the preservation of the remaining boundary markers set up by Andrew Ellicott during his 1791–1792 survey establishing the boundaries of the District of Columbia.

Thirty-eight of the original forty markers are extant, but many of them have been damaged over the years. They are designated Category II* Landmarks of the National Capital listed on the District of Columbia's inventory of historic places but are not listed in the National Register of Historic Places. The District's historic preservation office ought to work with the historic preservation offices in Maryland and Virginia toward the nomination and listing of the markers in the National Register.

As the National Capital Planning Commission's 1976 study showed, there are a number of possible steps which could be taken to insure the markers preservation. These possibilities ought to be studied further and a workable solution found before the markers suffer additional damage and deterioration.

I understand that Senator Mathias is going to introduce a bill calling for the markers preservation. The District of Columbia ought to assist Senator Mathias in anyway possible in this matter.●

By Mr. MAGNUSON:

S. 2039. A bill to amend the Congressional Budget Act of 1974 to limit the levels of total budget outlays contained in certain concurrent resolutions on the budget; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

● Mr. MAGNUSON. Mr. President, I have a bill which I am introducing, which would limit Federal spending to a percentage of the gross national product (GNP).

It is an amendment to the Budget Act.

Congressman JAMES JONES has introduced a similar bill in the House.

The basic difference between the two versions is that, frankly, mine is tougher and more restricted.

This bill would place a cap of 21 percent on Federal spending in fiscal 1981.

It would be 20 percent in fiscal 1982, and 19 percent in fiscal 1983 and following years.

In the last 4 years, we have come a long way toward a balanced budget.

In fiscal 1976 the deficit was $79 billion.

In 1977 it was $68 billion.

In 1978 $48 billion.

In 1979 $27 billion and 1980 is expected to be about the same.

For fiscal 1980, the Appropriations Committee is already nearly $8 billion below the President's request.

I suspect that figure will be closer to $9 billion below the President by the time we finish all of the bills.

This amendment would be tougher than the congressional budget resolution which assumes 21.4 percent in fiscal 1981 and 20.6 percent in 1982.

If there were unusual circumstances—like a natural disaster or a war—the provisions in this bill could be overriden by a majority of the Members.

We are currently spending at a rate in excess of 21 percent.

I would point out that for every percentage drop in the GNP relative to Federal spending, $25 billion would be cut from Federal spending.

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*Landmarks of importance which contribute significantly to the cultural heritage or visual beauty and interest of the District of Columbia and its environs, and which should be preserved or restored if possible.

Mr. President, 68 percent of the voters in my State adopted an initiative earlier this month which imposes similar limitations upon spending in Washington State.

I urge quick action on this proposal. We will begin our hearings on the fiscal 1981 budget in less than 2 months.●

By Mr. NELSON (for himself, Mr. HUDDLESTON, Mr. CULVER, Mr. BAUCUS, Mr. STEWART, and Mr. LEVIN):

S. 2040. A bill to amend the Small Business Act to increase assistance to small businesses in exporting; to the Select Committee on Small Business.

SMALL BUSINESS EXPORT EXPANSION ACT OF 1979

● Mr. NELSON. Mr. President, for 40 consecutive months, the United States has run a trade deficit which reached a staggering $28.5 billion in 1978 alone. International commerce remains the province of the largest U.S. corporations as only 200 firms account for more than 85 percent of all U.S. exports. Substantial export expansion cannot occur unless many more companies are drawn into export trade. Small- and medium-sized companies are a virtual pool of untapped export potential and are an important key to solving our trade problems.

That is why I am today introducing the Small Business Export Expansion Act of 1979. I am pleased that Senators HUDDLESTON, CULVER, BAUCUS, STEWART, and LEVIN are cosponsoring this measure.

This comprehensive measure is designed to address the major obstacles faced by small businesses entering into international trade. First, the bill establishes a grant system for States or local jurisdictions to establish an individualized export assistance program for small businesses. All too often, small businesses lack the personnel to master customs documents, shipping and marketing in foreign countries and foreign languages. They are simply unable to develop an international marketing program.

Under the grant program established by title I of the bill, a State, port authority, small business development center or any other local jurisdiction would be eligible to receive a grant from the Small Business Administration to develop an individualized international marketing program for a business. Assistance, free of charge, would be provided in the following areas:

Analyzing markets to determine the nature of a company's export potential;

Training and advising on matters concerning export pricing, shipping, documentation, financing, and business customs;

Identifying and contacting potential foreign customers and distributors for a company's products; and

Managing and sponsoring foreign trade missions for participating firms to meet with prescreened buyers, distributors, sales representatives and organizations interested in licensing or joint ventures.

This provision of the bill will give small businesses the direct assistance they need to export successfully. It is modeled after the extremely successful international trade program run by the Massachusetts Port Authority and the Smaller Business Association of New England. In 2 years, this program has created $1.6 million in cash sales and there is estimated 2 to 3 times that amount in contracts outstanding.

Title II of the bill would help make the Federal Government more responsive to the problems of small business engaged in international trade. It would organize in the Commerce Department regional offices, one-stop information centers providing companies with all necessary information on Government export programs. These centers would be staffed by a full-time representative of the Commerce Department, the Small Business Administration, the Internal Revenue Service, the Export-Import Bank and the Overseas Private Investment Corporation. This title would not create any new job positions but it would mean improved staffing in Commerce's regional offices. In doing this, it will minimize the bureaucratic runaround that the businessman receives when he approaches his government with questions about export programs.

Title III of the bill amends the Small Business Act by explicitly authorizing the SBA to make loan guarantees to small business exporters under its normal business loan program and by authorizing the guaranteeing of bridge financing loans for small businesses with verified contracts for the sale of products overseas. All too frequently, a small businessman needs a working capital loan to help him complete the terms of a contract. Banks are reluctant to make such loans because of the risks involved and because they are short-term loans with low profitability. This title of the bill helps resolve this financing problem by having the SBA guarantee such loans to small business exporters and thus spreading the risk.

Finally, title IV of the bill provides equity financing to new-to-export firms by authorizing the SBA to guarantee a percentage of a loan made by a small business investment company.

Although the United States still leads the world in actual dollar volume of trade, the country's relative position has been deteriorating. U.S. exports rose from $34 billion in 1968 to $144 billion in 1978, but the U.S. share of world exports declined from 16.3 percent to 12.2 percent. At the same time, Japanese exports rose from $13 billion to $98 billion and Japan's share of world exports increased from 6 percent to 8.3 percent.

If exports were as important to our economy as Japan's are to its economy we would have exported an additional $69 billion worth of goods and services in 1978. That would have credited a positive balance of trade, provided a tremendous boost to job creation, strengthened the dollar, and helped fight inflation.

The United States has the worst export policy among the world's major trading nations, a survey of executives of the 1,000 leading industrial corporations shows. The survey, conducted by Egon Zehnder International, Inc., one of the world's largest management consulting firms, Japan has a 96 percent rating in promoting exports. The corporate executives gave the United States an 11 percent rating, a rating below that given to West Germany, Taiwan, France, Switzerland, Brazil and the United Kingdom.

A fundamental problem is simply that too few American businesses engage in export trade because they lack marketing knowledge. The Commerce Department estimates there are 20,000 U.S. companies which could export successfully, but do not. A key element of U.S. export policy must be to get these companies involved in international trade.

Small businesses have proven they are innovative enough, more productive and efficient enough, and more than ready to enter this field. But they need direct assistance to export successfully, and they need to spread the risk exporting creates. The Small Business Export Expansion Act will help small business successfully overcome these problems and contribute to a better balance of trade. This, in turn, will shore up the dollar abroad, increase employment at home, and help tackle one of our country's toughest domestic problems, inflation.

Mr. President, I ask unanimous consent that the Small Business Export Expansion Act of 1979 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This act may be cited as the "Small Business Export Expansion Act of 1979."

TITLE I—SMALL BUSINESS EXPORT EXPANSION ASSISTANCE

SEC. 101. Section 7(d) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) The Administration is authorized to make grants to a qualified applicant to encourage the development and implementation of a small business international marketing program. Each qualified applicant under this title may receive a grant not to exceed $150,000 annually: Provided, That no more than one-third of the total funds received under this section may be used for the purpose of hiring personnel.

"(B)(i) To be eligible for a grant under this paragraph, an applicant proposing to carry out a small business international marketing program must submit to the Administration an application demonstrating that, at a minimum, program services will be provided to small business concerns through outreach services at the most local level practicable; on the date of application, the applicant has an established working relationship with at least one international marketing office; the small business international marketing program will provide market analyses of the export potential of small business concerns, training and advice on export pricing, shipping, documentation, financing and business customs, identification of and development of contacts with potential foreign customers and distributors for small business and concerned products, arrangements and sponsorship of foreign trade missions for small business concerns to meet with identified potential customers, distributors, sales representatives, and organizations interested in licensing or joint ventures, and a plan describing how export promotion activities undertaken as part of a grant shall be coordinated with export promotion activities and progress administered by the Department of Commerce.

"(ii) Each small business international

marketing program shall have a full-time staff director to manage program activities, and access to export specialists to counsel and assist small business clients in international marketing.

"(C)(i) Each small business international marketing program shall establish an advisory board of nine members to be appointed by the Governor of the state in which the applicant is located. Not less than two-thirds of the members of each such board shall be small business persons or associations representing small businesses.

"(ii) Each advisory board shall elect a chairman and advise, counsel and confer with the staff director of the small business international marketing program on all policy matters pertaining to the operation of the program (including who may be eligible to receive assistance and how to maximize local and regional private consultant participation in the program).

"(D) The Administration shall maintain a central clearinghouse to provide for the collection, dissemination and exchange of information between small business international marketing programs.

"As used in this paragraph, the term "applicant" means a State agency or instrumentality thereof, or Administration-designated Small Business Development Center, or any combination of such entities, which will carry out an international marketing program; and the term "international marketing office" means a facility located in a foreign country which can identify potential foreign customers, establish contact with such customers or distributors and assist in the management and sponsorship of foreign trade missions for small business concerns.".

SEC. 102. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(h) There are authorized to be appropriated to the Administration $7,650,000 for each fiscal year 1980, 1981 and 1982 to carry out the program provided for in section 7(d)(3).".

TITLE II—EXPORT PROMOTION CENTERS

SEC. 201. Section 4(b) of the Small Business Act is amended by redesignating subsection 4(b) as subsection 4(b)(1) and inserting at the end thereof the following:

"(b)(2) The Administrator, after consultation with the Secretary of Commerce, the Export-Import Bank of the United States, the Internal Revenue Service, and the Overseas Private Investment Corporation, shall establish a single Export Promotion Center in each regional office of the Department of Commerce.

The Export-Import Bank of the United States, the Internal Revenue Service, the Overseas Private Investment Corporation and the Administration shall each designate at least one full-time employee to serve as such agency's full-time representative in each such center. Each person designated by the Administration shall be familiar with the needs and problems of small business exporting and shall serve without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS-15 nor more than the rate of GS-17 of the General Schedule. Each Export Promotion Center shall serve as a one-stop information center on Federal Government export assistance and financing programs available to small business.".

SEC. 202. (a) Not later than six months after the enactment of this Act, the Administrator shall report to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives on the progress made in implementing the provisions of title.

(b) The Administration shall establish a plan for an evaluation of the international marketing program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine the effectiveness of the program in developing and expanding small business exports. Such evaluation shall be submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January 1, 1981, and annually thereafter.

TITLE III—SMALL BUSINESS EXPORT FINANCING ASSISTANCE

SEC. 301. Section 7(a) of the Small Business Act is amended by striking the word "sale:" and inserting in lieu thereof "sale, or exports:".

SEC. 302. Section 7(a)(3) of the Small Business Act is amended by striking the period at the end thereof and adding ", except that participation by the Administration shall be 90 per centum of the balance of the loan for export purposes which is outstanding at the time of disbursement.".

TITLE IV—SMALL BUSINESS INVESTMENT COMPANIES

SEC. 401. Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following:

"SEC. 320. The Administration, in its discretion may, by contract, make commitments to guarantee qualifying investments by small business investment companies licensed pursuant to this Act, subject to the following conditions:

"(1) Such contracts shall be limited as to each such company to a specified aggregate amount of the guaranteed portions of qualifying investments not to exceed the amount of such company's combined private paid-in capital and paid-in surplus. The aggregate amount of guarantee eligibility of each such company shall not at any one time exceed the amount specified in such contract less losses paid by and claims pending against the Administration, and the Administration's share of balances of such guaranteed investments remaining outstanding.

"(2) Such guarantees shall be granted only with respect to initial investments in eligible small business concerns, and with respect to subsequent investments made in the same concerns, after the effective date of this section, and shall not exceed 50 percent of each net investment loss, taking into consideration all recoveries and distributions received by such company, based on actual disbursements not exceeding the limitation of section 306(a) of this Act, without regard to anticipated profits.

"(3) Such guarantee shall be granted only with respect to an investment in a small business concern which is or will be engaged in a regular and continuous export business operation. In guaranteeing qualifying investments under this section, the Administration shall give preference to new-to-export small business concerns which have demonstrated that their product(s) are capable of penetrating the markets into which are exported. For purposes of this subsection, a "new-to-export small business concern" means (1) any small business concern which has not had direct or indirect export sales in excess of $1,000,000 in its five most recent fiscal years, or (2) any small business concern which has had no export sales in its three most recent fiscal years.

"(4) To qualify for a guarantee, each such investment shall require the prior written approval of the Administration as to the eligibility of the investment pursuant to this section. Each application for such approval shall be accompanied by a guarantee fee of 2 percent of the amount guaranteed, such fee to be refunded by the Administration in the event of disapproval or failure to consummate the investment. The Administration shall act upon each such application within fifteen working days from its receipt of such application. The Administration shall by regulation prescribe the form and content of such application.

"(5) If such company or any other person be determined pursuant to section 308(d) or 309 of this Act to have violated or failed to comply with any provision of this Act or of regulations prescribed thereunder, the Administration may, in its discretion, in addition to any other right or penalty to which the Administration may be entitled, void such contractual commitment, or suspend its effectiveness until such time as such violation or failure to comply has been cured.

"(6) Subject to the foregoing, the Administration shall, within 90 days after any claim of loss is filed with the Administration under the guarantee, pay to the claimant in cash the Administration's pro rata share of the guaranteed amount. The filing of a certificate of loss shall be presumptive evidence of the loss and the amount thereof. As a condition precedent to such payment, such company shall assign to the Administration the securities subject to the guarantee.".

SEC. 402. The table of contents of the Small Business Investment Act of 1958 is amended by inserting after "Sec. 319." the following:

"SEC. 320. Export Financing.".●

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of the Small Business Export Expansion Act of 1979.

I believe that U.S. industry has problems in exporting and the problems for small business are even greater. On April 12, 1979, The Senate Small Business Committee of which I am a member held hearings on the impact of the Multilateral Trade Agreement (MTA) on small business. At that hearing, the committee heard about obstacles which small business face trying to export, what various Federal agencies are trying to do to assist small business which have or desire to enter the field, and the potential overseas markets hold for this sector of our economy. On September 25 and 28, further hearings were held on small business and exports, which I cochaired. The conclusions which I drew from these hearings were that because of the MTA and other conditions, the potential for exports is there and becoming greater and this potential is not close to being realized. A second conclusion is that the U.S. export assistance programs are not providing the type of comprehensive services to small business that are needed if this potential is to be fulfilled.

The U.S. trade figures for 1978 revealed a deficit of nearly $28.5 billion. In terms of absolute dollars, the United States continues to be the world leader, but in percentage of GNP, we are the lowest of any industrialized nation. While I realize that petroleum imports account for some part of that deficit, it is also true that we are failing to fulfill the potential that U.S. goods have in overseas markets. Our policies must reflect the importance to the economy of increasing exports and the need to be aggressive in seeking outlets for our goods on overseas markets. Where does small business stand in this situation.

There are about 300,000 manufacturing firms in the United States. Only 25,000 export regularly, and 85 percent of our total exports can be attributed to 250 firms. Small business accounts for about 10 percent of our annual exports. The Department of Commerce estimates that an additional 20,000 to 30,000 small businesses could be exporting.

I might add that the failure of the United States to take advantage of export opportunities effects jobs. It is estimated that for every billion dollars of additional exports, 40,000 jobs are created. If we were able to balance our trade deficit by increasing our exports by $30 billion, 1.2 million new American jobs could be created. The potential is there; we only need to develop the means to capture it. I am concerned that the Federal Government make the means available for a small businessperson who might have the inclination to enter the export field.

Doing business overseas can appear to be overwhelming and often is a complicated task. But it is one that can be mastered and one in which good profits can be made. Our export assistance program must provide the know-how and help take that small businessperson through whatever procedures and around whatever barriers that they may encounter. That includes, but is not limited to: overseas market information; locating potential buyers; direct assistance abroad (with language and customs, et cetera); financing, insurance, international banking assistance; transportation of goods.

At present, a number of Federal agencies are involved in providing services to small businesses wishing to export: Department of Commerce, SBA, Export-Import Bank, OPIC, State Department, and Treasury. While they are beginning to work together, I believe that these services are still segmented and in developing a national export policy, we must look to providing a unified service approach to assisting small business.

The Small Business Export Expansion Act addresses a number of my concerns very well. First, it provides for a grant program to States for the purpose of implementing a small business international marketing program. Grants would not exceed $150,000 annually and the grant program would terminate after 3 years. The grantees would provide market analysis, advice on export pricing, shipping, financing and business customs, identification and establishment of contact with potential foreign buyers and arrangement and sponsorship of trade missions with prescreened buyers. By providing these services and other technical assistance to small businesses, I believe the incentive will be present for many small businesses who are now reluctant to enter the area because of lack of expertise and resources.

Second, the bill establishes in Commerce Department regional offices, one-stop information centers of Government export programs. This unified, or "one-stop" approach will make the Government work better for business and make export assistance more rational for the small businessperson, who will no longer have to run from one agency to another in order to assemble needed information on exporting. Finally, the act assists the small exporter with several financing programs. SBA will be authorized to provide financing to businesses who are in need of short-term working capital necessary to complete a contract and to guarantee investments by small business investment companies in new-to-export businesses.

The Small Business Export Expansion Act will address some of the problems small businesses face in developing overseas markets. It will benefit small business and also should benefit the entire economy by reducing our trade deficit. It is with great pleasure that I join several of my colleagues in cosponsoring this important piece of legislation.

By Mr. BOREN:

S. 2042. A bill to establish a procedure for congressional review of all proposed agency rules, and for other purposes; to the Committee on Governmental Affairs.

CONGRESSIONAL REGULATORY REVIEW ACT OF 1979

● Mr. BOREN. Mr. President, as a candidate for the U.S. Senate a year ago, I promised the people of Oklahoma that if they elected me I would never forget who sent me to Washington. I have not. Nor, Mr. President, have I forgotten why the people of Oklahoma sent me here.

I have heard from many people in Oklahoma who feel that government in general and the U.S. Government in particular has taken a firm, militant and unwelcome hold on all of our lives and furthermore our ability to do anything about it seems to diminish in direct proportion to the increasing interference.

This feeling is not limited to the borders of my State. Mr. President, it rolls on waves of anger and frustration to every corner of this country. The number of bills introduced in this session to reform the regulatory process grows steadily. One or more speeches echo through this Chamber every week decrying the cost, the growth and the need to control the unofficial fourth branch of Government—the Federal bureaucracy. The list of Senators who sponsor those bills and make those speeches cross all party and ideological lines.

In the face of all this, it is proper to ask why so little has been done—why does this creature of Congress continue to grow in size and power despite the perceived displeasure of its creator? The answer to that, Mr. President, is both complex and depressing and also the reason that I am today introducing my own answer to this dilemma—the Congressional Regulatory Review Act of 1979.

My proposal addresses itself to an elusive but fundamental element in the debate over regulatory reform. At the same time, it provides a solution to the very first problem facing citizens of this country who wish to do something about governmental encroachment.

The fundamental issue to which I refer, Mr. President, is the will of the Congress to act.

A strong case can be made that none of the reform measures now before us is really needed. Congress created the bureaucracy and Congress, with existing procedures, could instruct it, modify it or completely dismantle it—if Congress so chooses—if there is sufficient will for any of those actions.

In point of fact, from time to time, Congress has taken some modifying action, but there have been relatively few all out efforts to gain control.

It could be argued, Mr. President, that Congress has the will and the means to solve this problem, but cannot agree on the direction to take. Such a contention is not without precedent, as the energy debate of the last few years testifies.

However, we are moving on energy, Mr. President, and our differences on approach in the fields of synfuels and windfall profit and gas rationing and all the rest are being worked out in the give and take of the legislative process.

Certainly, the issues involved are no more complicated than the issues involved in the bureaucratic crisis and the effects on the American people are equally as costly.

The difference is that, for the moment, the energy crisis is more visable and most importantly, the American people know exactly where the responsibility rests for addressing this issue—in Washington, in the Congress.

I submit the same approach is needed in regulatory reform. If we give the American people a firm idea of where they can go to air their grievances against the bureaucracy, where they can go to receive a prompt and fair hearing, where they can go to find someone accountable—we will, at last, be making meaningful progress toward reform. I would be willing to predict something else, Mr. President, if we give the American people that kind of clear-cut, easily understood accountability where it ought to be—with their elected representatives, instead of the very agencies against whom their grievances are lodged—the will of those elected representatives to pursue these grievances will rise dramatically.

That is the purpose of my bill. It provides a congressional review of existing regulations and for those already in place. I want my constituents to know they can come to me to represent them in these matters and that I will have some realistic chance to help them if help is warranted.

There is no doubt in my mind that agencies who know that the rules they propose or employ will be reviewed by the Congress on behalf of the people will be more concerned about what Congress intended in granting the rulemaking authority and what the people want.

This would be true of executive department agencies and the so-called independent agencies, which—while they have been rightly insulated against undue pressure—were certainly never intended to be independent from the people.

Mr. President, I want to make it clear that I fully appreciate the good that regulatory agencies do produce, particularly in the health, safety, and environmental areas—areas, which I must also say, have been fertile grounds for abuse.

Senator RIBICOFF, chairman of the Governmental Affairs Committee, has pointed out the value of controls on patent medicines, meat and poultry inspection, pasteurization, aviation safety, highway safety, and drug testing among others.

These kinds of results were the intent of the Congress when they delegated authority to the appropriate agencies. Where we have failed is in not consistently and systematically following up to be sure our intent was reflected in the result.

There is no mischief, Mr. President, in the concept of delegating tasks, if you do not abdicate control at the same time. The Congress should and does bear the weight of ultimate responsibility and my bill accepts that responsibility and focuses public attention on it.

The bill calls for a legislative veto, Mr. President, and I am fully aware of the legal questions thus raised.

I have studied the issue and I agree with the statements made just last week by my good friend from New Mexico, Senator SCHMITT. The legislative veto "will vastly increase the effectiveness of the Congress in representing the concerns of our constituents with regard to lawmaking in the form of Federal regulations and in assuring agency compliance with the intent of Congress in national policy formulation."

There are 295 provisions of law containing legislative veto, Mr. President, and I agree with Senator SCHMITT that a court challenge is likely. I am equally confident of the outcome of such a challenge.

Mr. President, my introduction of this bill should not be taken as any lessening of the resolve I have to press for the passage of other regulatory reform efforts I have cosponsored.

In particular, I want to re-emphasize my support for Senator SCHMITT's amendment to the FTC authorization bill and for Senator LEVIN's "Agency Accountability Act of 1979" upon which I am the principal cosponsor.

I was particularly interested in Senator LEVIN's testimony before the Rules of the House Subcommittee of the House Rules Committee on November 15.

He recounted his experience as president of the Detroit City Council. It was an office in which Senator LEVIN had looked forward to working with the Federal Government "to help solve our community problems, to ease our financial burden, and to reduce our urban blight."

Instead, Mr. President, Senator LEVIN's testimony reflected what happened:

I ended up battling it for much of that period. And, I found that oftentimes the agencies which we fought were acting either independently of or contrary to legislative intent. I realized that something must be wrong when local government officials, business people, and neighborhood residents spent more time fighting the federal entities that were created to serve and help them than they did the problems which these agencies were designed to solve.

Senator LEVIN concluded, as have I, that the Federal bureaucracy is running out of control. Only elected officials should ultimately make laws, because only they are fully accountable to the people. Anything short of that accountability is tyranny and not representative democracy. We can reestablish that accountability by giving Congress the power to veto bureaucratic rules and regulations.

Criticisms of today sound like echos of the Declaration of Independence itself. The declaration, in citing the abuses of the King, said:

He has erected a Multitude of new Offices, and sent higher Swarms of Officers to harrass our People, and eat out their Substance."

The tyranny of bureaucracy raises its head again, as it did in 1776. This time it is not by license of any king, but by license of Congress. Congress has allowed this bureaucracy to become a tyranny. Congress has delegated the power to the bureaucracy. Congress can take it back. It is high time it did.●

By Mr. MELCHER:

S. 2043. A bill to provide for research in the diagnosis, prevention, and control of malignant tumors in domestic animals, poultry, and wildlife; to the Committee on Agriculture, Nutrition, and Forestry.

ANIMAL CANCER RESEARCH ACT

● Mr. MELCHER. Mr. President, I introduce and send to the desk the Animal Cancer Research Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Animal Cancer Research Act.

SEC. 2. Congress finds:

(a) that basic research on malignant tumors or cancers is essential to protect the health of domestic animals, poultry and wildlife, including birds;

(b) that carcinogenic agents have not been adequately identified in domestic animals, poultry and wildlife management;

(c) that basic research in diagnosis, prevention and control of malignant tumors in animals and birds has not been adequately coordinated;

(d) that significant theories of a common factor in malignant tumors, such as chorionic gonadotropin, have not been pursued in depth; and

(e) that research on diagnosis, prevention and control of cancer in animals and birds will be beneficial to identify any such common factors in both human and animal malignant tumors, if such exist.

SEC. 3. There is hereby authorized to be appropriated to the Science and Education Administration of the Department of Agriculture $1,500,000 for fiscal year 1980, $3,000,000 for fiscal year 1981 and $5,000,000 annually thereafter for the conduct of basic research on cancer in animals and birds at appropriate facilities within the Department of Agriculture or by grants to other qualified veterinary research facilities.●

By Mr. TOWER:

S. 2044. A bill to amend the Interstate Commerce Act by repealing 49 U.S.C., section 10729, dealing with incentive rates associated with capital investments; to the Committee on Commerce, Science, and Transportation.

CAPITAL INCENTIVE RATE ACT OF 1979

○ Mr. TOWER. Mr. President, I am today introducing a bill to repeal the authority of the Interstate Commerce Commission to establish rail common carrier freight rates under the capital incentive rate provision of the Railroad Revitalization and Regulatory Reform Act of 1976, the so-called 4–R Act. My bill would also permit the reopening and investigation of certain contested capital incentive rates now in effect or which may be made effective in the near future.

The capital incentive rate provision, formerly contained in section 15(19) of the Interstate Commerce Act, is now codified in the revised Interstate Commerce Act as section 10729, title 49, United States Code. The provision applies, essentially, to rail freight rate schedules which, if implemented, would require a total capital investment of $1 million or more. A rate becomes effective under the capital incentive rate section unless the Interstate Commerce Commission determines the rate to be unlawful within a period of 180 days after the rail carrier gives notice of intent to file the new rate. Once established, a capital incentive rate generally may not be suspended or set aside for a period of 5 years from its effective date.

The congressional intent in including the capital incentive rate section in the 4–R Act was to encourage shippers and carriers to negotiate rate agreements for innovative services requiring large capital investment in rail related facilities. In the words of the ICC. "There is no question that the primary purpose of the 4–R Act's capital incentive provision was to encourage large-scale negotiated rates."

Unfortunately, the real purpose of the provision, to encourage large-scale negotiated rates, has largely been thwarted by the language of the section itself. As approved by Congress, the provision contains no requirement for shippers and carriers to agree on the rate. Both the ICC and the only Federal court yet to construe the provision have ruled that the absence of such a requirement allows railroads to file unilaterally-imposed capital incentive rates.

Notwithstanding the laudable intent of the capital incentive rate provision, its application in practice often has had a devastating impact on shippers, particularly captive coal shippers such as coal-burning electric utilities and industries as previously noted, there is no requirement that the rates be negotiated, and many coal shippers simply do not have enough economic clout to be able to moderate the railroads' pricing demands on coal traffic.

Electric utilities and industries that burn western coal, or are in the process of converting their boilers from oil or gas to coal, are in an especially vulnerable position under these circumstances. Economic pressures of rising oil and gas prices, an increasingly strict Federal coal conversion policy, and clean air rules which penalize or preclude the use of high-sulfur coal have combined to place a high premium on relatively low-

sulfur western coal. Western rail carriers have a virtual monopoly over coal transportation, and western railroads have used their market power to take full advantage of the situation.

As a result, in the only three capital incentive rate cases decided by the ICC, the railroads sought and the ICC sanctioned extremely high coal freight rates at a level far exceeding all costs associated with the movement of the coal.

These cases involved Arizona Electric Power Cooperative, Houston Lighting and Power Co., and Celanese Chemical Co. Each of these cases involved the transportation of western coal by western rail carriers and each rate was approved over the vigorous opposition of the shippers.

The coal freight rates approved by the ICC in these three capital incentive cases have made the realization of our energy policy goals more difficult and have placed an excessive burden on affected utility rate payers and industries. Yet under present law, these established capital incentive rates cannot be reopened or reviewed for 5 years.

Thus, despite the fact that the ICC in several subsequent noncapital incentive cases has altered the methodology it utilizes to decide coal rate cases, I believe it is time not only to repeal the capital incentive provision, but also to permit the reopening of existing rates established under that provision.

The bill I am introducing would repeal the capital incentive rate section. Any capital incentive rate which became effective prior to June 30, 1980, would remain in effect in accordance with its terms, but for no longer than 5 years from its effective date.

However, the ICC would be required, upon request of an affected shipper, to conduct an investigation into the lawfulness of any capital incentive rate which was contested by the affected shipper but nevertheless became effective prior to June 30, 1980. The ICC would be required to complete the investigation proceeding within 180 days of such a request, with the burden of proof in the proceeding being upon the carrier. Also, during the 5-year period, the ICC could order the rate revised at a level equal to the variable cost of providing the transportation if the ICC finds that the level then in effect reduces the going concern value of the carrier.

This bill will not achieve all that needs to be achieved in this policy area, but it is essential that this much be done now. Other, broader issues, such as those dealing with substantive standards in cases such as these, can and should be addressed in connection with pending legislation now being considered in the Committee on Commerce, Science and Transportation. I would be pleased to work with the members of the Commerce Committee to help further these needed policy changes.●

By Mr. DECONCINI:

S. 2045. A bill to provide for open meetings of the Judicial Conference of the United States and of each judicial council, public access to transcripts of meetings of the Judicial Conference of the United States and of each judicial council, and for other purposes; to the Committee on the Judiciary.

JUDICIAL CONFERENCE AND COUNCILS IN THE SUNSHINE ACT

Mr. DECONCINI. Mr. President, the Judicial Conference of the United States is the coordinating body of the Federal judiciary, established in 1922 by an act of Congress. The conference, first chaired by Chief Justice William Howard Taft, was conceived to be a body devoted primarily to assessing the need for and reassigning judges, and promoting uniform Federal procedures. The conference has been a moving force behind the streamlining of the Federal judiciary since its inception. It has taken primary responsibility for promulgating uniform rules of procedure, assessing the judicial needs of the various Federal districts and circuits, and advising the Congress on the state of the judicial system.

The conference has not been without critics, however. Even during the debate on the establishing legislation (H.R. 2103, 67th Cong.) Senator John Shields of Tennessee pressed an argument that is still heard today. Senator Shields feared that the conference would expand and encroach upon executive and legislative functions. He stated on the Senate floor:

> They should be wholly judges, always judges, and nothing but judges.

In the final vote, however, the necessity of having a coordinating body to direct the workload of the judiciary outweighed the concerns of Senator Shields and his allies. Yet those early criticisms of the conference have proven to be of some merit. Indeed, while sitting as members of the conference, judges are acting in more of an administrative and legislative fashion than in a judicial role. As a group, the conference makes position statements about matters of policy, enacts rules of conduct for judges, recommends procedural rules, and, when requested, offers advice to Congress on legislation affecting the judiciary.

Corresponding closely to the functions and goals of the Judicial Conference are those of the judicial councils. The functions of the judicial councils complement those of the Judicial Conference and include the formulation of policy and promulgation of orders that will expedite the effective administration of business by the courts within the circuit. The district judges within the circuit are required by statute to promptly carry into effect all orders of the judicial council. The functions of the judicial councils are, therefore, often quasi-administrative and quasi-legislative in nature and thus open to much of the same criticism as that directed at the Judicial Conference.

Mr. President, the quasi-legislative, quasi-administrative functions of the Judicial Conference does not disturb me as it did Senator Shields in 1921. As chairman of the Subcommittee on Improvements in Judicial Machinery, I can state that the conference, under the leadership of Chief Justice Warren Burger, has been one of the most effective and productive Government entities in upgrading the Federal judiciary. Chief Justice Burger, because of his prodigious work in judicial administration, has unquestionably secured for himself a place in history as one of the great Chief Justices.

The judicial councils, under the leadership of the chief judge of each circuit, have also been very successful in improving the administration of justice within their respective circuits. They have proved themselves to be invaluable and indispensable in the struggle to expedite the ever-increasing caseloads burdening the circuits.

For the Judicial Conference and circuit judicial councils to achieve these accomplishments while operating in a purely judicial role would be impossible, and not even a strict interpretation of the separation of powers doctrine requires judges to operate as "wholly judges, always judges, and nothing but judges." No serious student of the administration of justice would argue for sacrificing the Judicial Conference or councils on the altar of theoretical purity. Despite the hybrid nature of their functions, the accomplishments of those bodies have been a credit to the wisdom Congress showed in creating them.

There is one aspect of this hybrid nature that concerns me: The closed meeting policy of the conference and the councils. When a judge or panel of judges sits as a court, secrecy in the deliberation process is required to protect the opinion of the judges from outside pressures and to guarantee due process to the litigants. When a body of judges sits in a conference or council meeting to decide matters of court administration, however, there is no need for secrecy. Rather, the same considerations that caused Congress to enact open-meeting or "sunshine" legislation for itself and for administrative agencies apply to meetings of the Judicial Conference and councils. As Senator Sam Ervin stated in 1970:

> They certainly do not act as judges when they vote to approve or disapprove of pending legislation, or adopt rules of financial disclosure for their colleagues. Why, then, should the conference meet in secret? I believe that when judges act as policy makers and lobbyists, it follows that their discussions should be public. If the conference supports or opposes a bill, the Congress and the public should have free access to the conference's debate on that proposal. The Congress should know how carefully the Judicial Conference researches its position so that it can attach relative weights to them.

Mr. President, the powers of the judiciary are vested in men and women appointed for life who make their decisions on matters before the court in secrecy. The Founding Fathers wisely circumscribed this broad power by limiting the jurisdiction of the courts, and by vesting the power to organize the lower courts in the Congress. The Congress created the Judicial Conference and councils in furtherance of its duties to provide for the administration of Federal courts.

In maintaining the delicate balance of power between the Congress and the judiciary, it is important that Congress recognize that its creations, the Judicial Conference and councils, are not

courts—that their judges do not sit as judges. They sit in a sense as administrators and legislators in their area of competence. In these proceedings and deliberations the judges are neither bound by legal precedent nor by jurisdictional requirements. The shroud of secrecy necessary to protect the impartiality of a judicial decision does not appropriately cloak the Judicial Conference and judicial councils. Rather, like the Congress and the various administrative agencies, the Judicial Conference and councils should conduct their meetings in public. Open meetings will in no way hinder proper function of those bodies. They will instead foster greater public understanding of and respect for the institutions and the men and women who conduct the affairs of the Government.

Mr. President, today I am introducing this important legislation which is entitled the "Judicial Conference and Councils in the Sunshine Act" and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Judicial Conference and Councils in the Sunshine Act".

SEC. 2. (a) Chapter 15 of title 28, United States Code, is amended by adding the following new section immediately after section 334:

"§ 335. Open meetings of the Judicial Conference and the judicial councils.

"(a) The provisions of this section apply to the meetings of the Judicial Conference of the United States, each committee and subcommittee of the Judicial Conference, and each judicial council.

"(b) For purposes of this section, the term—

"(1) 'judicial entity' means the Judicial Conference of the United States, each committee and subcommittee of the Judicial Conference, and each judicial council of the circuits;

"(2) 'meeting' means a deliberation of at least the number of individual members required to take action on behalf of the judicial entity in which such deliberation determines or results in the joint conduct or disposition of official business, but does not include deliberations required or permitted by subsection (e) or (f); and

"(3) 'member' means, as the case may be, a member of—

"(A) the Judicial Conference of the United States;

"(B) any committee or subcommittee of the Judicial Conference of the United States; and

"(C) a judicial council of a circuit.

"(c) Members shall not jointly conduct or dispose of business of the judicial entity other than in accordance with this section. Except as provided in subsection (d), every portion of every meeting of each judicial entity shall be open to public observation.

"(d) Except in a case in which the judicial entity finds that the public interest requires otherwise, the second sentence of subsection (c) shall not apply to any portion of a meeting of that judicial entity, and the requirements of subsections (e) and (f) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, if the judicial entity properly determines that such portion of its meeting or the disclosure of such information is unlikely to—

"(1) involve accusing any person of a crime, or formally censuring any person; or

"(2) disclose information of a personal nature and such disclosure would constitute a clearly unwarranted invasion of personal privacy.

"(e) (1) Action under subsection (d) shall be taken only when a majority of the entire membership of the judicial entity votes to take such action. A separate vote of the members of that judicial entity shall be taken with respect to each meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (d), or with respect to any information which is proposed to be withheld under subsection (d). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each member of that judicial entity participating in such vote shall be recorded and no proxies shall be allowed.

"(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the judicial entity close such portion to the public for any of the reasons referred to in paragraph (1) or (2) of subsection (d), the judicial entity, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

"(3) Within one day of any vote taken pursuant to paragraph (1) or (2) of this subsection, each judicial entity shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the judicial entity shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion, together with a list of all persons expected to attend the meeting and their affiliation.

"(f) (1) Each judicial entity shall publicly announce, at least one week before the meeting, the time, place, and subject matter of each meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members determines by a recorded vote that business requires that such meeting be called at an earlier date, in which case the judicial entity shall make public announcement of the time, place, and subject matter of such meeting and whether open or closed to the public, at the earliest practicable time.

"(2) The time or place of a meeting may be changed following the public announcement required by paragraph (1) only if the judicial entity publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination to open or close a meeting, or portion of a meeting, to the public may be changed following the public announcement required by this subsection only if (A) a majority of the entire membership determines by a recorded vote that business so requires and that no earlier announcement of the change was possible, and (B) the judicial entity publicly announces such change and the vote of each member upon such change at the earliest practicable time.

"(3) Immediately following each public announcement required by this subsection, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated to respond to requests for information about the meeting, shall also be submitted for publication in the Federal Register.

"(g) (1) For every meeting closed pursuant to paragraph (1) or (2) of subsection (d), the Chief Justice of the United States, the chief judge of the circuit, or the chairperson of the committee or subcommittee, as the case may be, shall publicly certify that in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement setting forth the time and place of the meeting, and the persons present, shall be retained by the judicial entity. The judicial entity shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or any portion of a meeting, closed to the public.

"(2) Each judicial entity shall promptly make available to the public, in a place easily accessible to the public, the transcript or electronic recording of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such items of such discussion or testimony as the judicial entity determines contain information which may be withheld under subsection (d). Copies of such transcript, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The judicial entity shall mantain a verbatim copy of the transcript, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting.

"(h) (1) The Judicial Conference and each of the judicial councils shall, within one year after the date of enactment of this section and following published notice in the Federal Register of at least 30 days notice and opportunity for written comment by any person, promulgate regulations to implement the requirements of subsections (c) through (g) of this section. The regulations promulgated by the Judicial Conference shall apply to the Judicial Conference and to the committees and subcommittees of the Judicial Conference.

"(2) The Judicial Conference and each of the judicial councils shall transmit a copy of the complete text of each final rule to the Senate and the House of Representatives on the day on which the final rule is published in the Federal Register. No final rule shall become effective if, within 60 calendar days of continuous session of Congress after the date of transmittal of the rule to the Congress, either House passes a resolution stating in substance that that House does not favor any part or all of the regulations submitted pursuant to this section.

"(3) For the purposes of this subsection—

"(A) continuity of session is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

"(i) Any person may bring a proceeding in the United States District Court for the District of Columbia to require the Judicial Conference or any of the judicial councils to promulgate regulations if such regulations have not been promulgated within the time period specified in subsection (h). Subject to any limitations of time provided by law, any person may bring a proceeding in the United States Court of Appeals for the

District of Columbia to set aside regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (c) through (g) of this section and to require the promulgation of regulations that are in accord with such subsections.

"(j)(1) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (c) through (g) of this section by declaratory judgment, injunctive relief, or other relief as may be appropriate. Such actions may be brought by any person against a judicial entity prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the judicial entity in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the meeting is held or in which the judicial entity in question has its headquarters, or in the United States District Court for the District of Columbia. In such actions a defendant shall serve his answer within thirty days after the service of the complaint. The burden is on the defendant to sustain his action. In deciding such cases the court may examine *in camera* any portion of the transcript, electronic recording, or minutes of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the parties, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section or ordering the judicial entity to make available to the public such portion of the transcript, recording, or minutes of a meeting as is not authorized to be withheld under subsection (d) of this section.

"(2) Any Federal court otherwise authorized by law to review action by any judicial entity may, at the application of any person properly participating in the proceeding pursuant to other applicable law, inquire into violations by the judicial entity of the requirements of this section and afford such relief as it deems appropriate. Nothing in this section authorizes any Federal court having jurisdiction solely on the basis of paragraph (1) to set aside, enjoin, or invalidate any action by any judicial entity (other than an action to close a meeting or to withhold information under this section) taken or discussed at any judicial entity meeting out of which the violation of this section arose.

"(3) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (i) or of this subsection, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against a judicial entity, the costs may be assessed by the court against the United States.

"(k) The Judicial Conference and each of the judicial councils shall annually report to the Congress with respect to its compliance with the requirements of this section, including a tabulation of the total number of meetings open to the public, the total number of meetings closed to the public, and the reasons for closing such meetings. The report of the Judicial Conference shall include the information required under the first sentence of this subsection for each of the committees and subcommittees of the Judicial Conference.

"(l) Nothing in this section expands or limits the rights of any person under section 552 of title 5 of the United States Code, except that the exemptions set forth in subsection (d) of this section shall govern in the case of any request made pursuant to section 552 of such title to copy or inspect the transcripts or recordings described in subsection (g) of this section. The requirements of chapter 33 of title 44 of the United States Code, shall not apply to the transcripts or recordings described in subsection (g) of this section.

"(m) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any meeting of a judicial entity or portion thereof required by any other provision of law to be open.

"(n) Nothing in this section authorizes any judicial entity to withhold from any individual any record, including transcripts or recordings required by this section, which is otherwise accessible to such individual under section 552a of title 5 of the United States Code.".

(b) The table of sections for chapter 15 of title 28, United States Code, is amended by adding immediately after the item relating to section 334 the following new item:

"335. Open meetings of the Judicial Conference and the judicial councils.".

ADDITIONAL COSPONSORS

S. 336

At the request of Mr. MATHIAS, the Senator from Illinois (Mr. PERCY) has been added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

S. 736

At the request of Mr. DOLE, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 736, a bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of employment taxes.

S. 1121

At the request of Mr. HAYAKAWA, the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Colorado (Mr. ARMSTRONG) were added as cosponsors of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1693

At the request of Mr. MELCHER, the Senator from Arizona (Mr. DECONCINI) and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of S. 1693, a bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

S. 1793

At the request of Mr. COCHRAN, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Pennsylvania (Mr. HEINZ), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1793, a bill to amend title 10, United States Code, to authorize the Secretary of the Army to establish an Army Reserve career interest program for persons between the ages of 14 and 18.

AMENDMENTS NOS. 582 AND 583

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of amendments Nos. 582 and 583 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 627

At the request of Mr. DOLE, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of amendment No. 627 intended to be proposed to H.R. 3919, a windfall profit bill.

AMENDMENTS SUBMITTED FOR PRINTING

GI BILL AMENDMENTS ACT OF 1979—S. 870

AMENDMENT NO. 689

(Ordered to be printed and to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to S. 870, a bill to amend title 38, United States Code, to extend the delimiting date for veterans under certain circumstances; to limit the time for filing claims for educational benefits based upon disability; to modify the standards of progress requirements; to modify the 50-percent employment requirements; to eliminate the requirements for counting BEOG's and SEOG's in the 85–15 enrollment ratio; to modify payment of educational benefits to incarcerated veterans; to permit certain foreign training; to pay benefits for certain continuing education programs; to strengthen statutory provisions on measurement of courses and on overpayment of educational benefits; to repeal the authority for pursuit of flight and correspondence training; to repeal the authority for pursuit of certain PREP training; and for other purposes.

VETERANS CAREER DEVELOPMENT ADVANCEMENT, AND TRAINING ASSISTANCE

Mr. PRESSLER. Mr. President, during the Senate consideration of S. 870, the GI Bill Amendment Act of 1979, I will call up an amendment which I am introducing today to provide needy and deserving disabled and Vietnam veterans meaningful careers, training, and advancement opportunities. The average Vietnam veteran is 34 years old, is married with two children, has more than a high school education, and desires and deserves a role in society comparable with his age, abilities, and aspirations. The majority of Vietnam combat veterans have been separated from the service more than 10 years and are no longer eligible for GI bill benefits.

The only readjustment and employment programs available to these veterans today are ineffectual social welfare programs which leave Vietnam veterans years behind their peers in opportunities and careers. My amendment would establish a career development, advancement, and training program. This program would accord Vietnam veterans the assistance and opportunities they need

to acquire careers and roles in the labor force equal to those they probably would have attained had they not served their country during the Vietnam war.

The career development, advancement, and training program will allow needy veterans to use their earned GI bill entitlement to provide direct financial incentives to public and private employers to hire, train, and promote unemployed or underemployed veterans.

A veteran's acquisition of permanent full-time employment with advancement and training opportunities is a prerequisite to the allocation of any career development, advancement, and training allowances under the program.

Under a program of career development and advancement a veteran would be authorized to use readjustment entitlement to subsidize an employer for up to one-third of the cost of the veterans wages in a public or private sector job for a period of 6 to 18 months. The career development and advancement allowance would provide a direct financial incentive for employers to hire and/or promote qualified unemployed and underemployed Vietnam veterans for meaningful careers or to advance underemployed veterans in their current careers.

Under a program of career development and training the veterans earned readjustment entitlement would be used to reimburse employers for up to 50 percent of the veteran's training and wages. By directly subsidizing training costs, the program will encourage the hiring and training of veterans for specialized occupations. It will also provide the skill upgrading necessary to advance underemployed veterans in their chosen careers.

Employers participating in the program must agree that the employment and advancement opportunities will continue after the payment of careers development, advancement, and training allowances end. The allowance would vary from case to case. Vietnam era veterans (without service in Vietnam) would be able to draw on 6 months entitlement, veterans with service in the Indochina theater of operation on 9 months, and disabled veterans on 12 months. Veterans, who after counseling are determined to have serious readjustment, rehabilitation or employment problems, would be able to draw on 18 months entitlement.

The career development, advancement and training program will cost approximately $3,000 per veteran. This is far less than the cost of institutional training under the GI bill ($10,000), CETA public service employment ($7,800) or unemployment compensation to unemployed or underemployed veterans. The career development, advancement and training program is:

Drawn entirely upon existing entitlements;

"Sunsetted" and will terminate within 4 years after the effective date;

Needs tested, as veterans must be unemployed or underemployed to participate and be making less than $13,000 for disabled and combat veterans, or $11,000 for era veterans at the time of application to participate;

Designed to use existing delivery systems, generate a minimum of paperwork, and require no new staff other than those temporarily needed to handle applications for the program; and

Far less costly and more effective than the alternatives, which include education and training with no employment, opportunities under the current GI bill, unemployment, underemployment, public service employment, and the major social, economic and personal costs stemming from the failure of Vietnam veterans to make productive readjustment to society.

The Congressional Budget Office estimates that there will be 250,000 participants in the program at a 5-year cost of $723 million. This is half as much as the cost of a 15 percent cost-of-living increase in GI benefits. More importantly, however, this amendment will target the money to those Vietnam veterans that need it the most. With an effective date of September 1, 1980, the program is within the parameters of the fiscal year 1980 budget resolution.

I ask unanimous consent that there be printed at this point in the RECORD an analysis of the career development, advancement and training program and the text of my amendment.

There being no objection, the amendment and analysis were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 689

On page 57, between lines 19 and 20, insert a new title as follows:

TITLE VII—VETERANS CAREER DEVELOPMENT, ADVANCEMENT, AND TRAINING ASSISTANCE

SEC. 701. (a) Part III of title 38, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 45—VETERANS CAREER DEVELOPMENT, ADVANCEMENT, AND TRAINING ASSISTANCE

"Subchapter I—Purpose; Definitions

"Sec.
"2101. Purpose.
"2102. Definitions.

"Subchapter II—Eligibility and Entitlement

"2103. Eligibility; entitlement; duration.
"2104. Time limitations for completing a program of career development or training.
"2105. Occupational and vocational counseling.

"Subchapter III—Enrollment

"2111. Selection of program.
"2112. Applications; approval.
"2113. Disapproval of enrollment in certain program.
"2114. Discontinuance for unsatisfactory conduct or progress.

"Subchapter IV—Payments to Eligible Employers

"2121. Career development and advancement and career development and training allowances.
"2122. Computation of career development and advancement and career development and assistance allowances.
"2123. Payment of career development and advancement or career development and training assistance allowances.

"Subchapter V—Approval

"2131. Approval of programs.
"2132. Authority for approval.
"2133. Approval of career development and training programs.
"2134. Notice of approval of programs.
"2135. Disapproval of programs.
"2136. Overpayments to eligible employers.
"2137. Discontinuances of allowances; examination of records; false or misleading statements.
"2138. Change of program.
"2139. Compliance surveys.
"2140. Responsibilities of Secretary of Labor.
"2141. Veterans information and outreach.
"2142. Program effective and termination dates.

"Subchapter I—Purpose; Definitions

"§ 2101. Purpose

"The Congress hereby declares that a career development, advancement, and training program is created by this chapter for the purpose of—

"(1) extending the benefits of a meaningful career to qualified and deserving persons who might otherwise be unable to attain a career opportunity,

"(2) providing vocational readjustment and restoring lost career opportunities to those service men and women whose careers have been interrupted or impeded by reason of active military duty after August 4, 1964,

"(3) aiding such persons in attaining the vocational and occupational status which they might normally have aspired to and obtained had they not served their country, and

"(4) providing an opportunity for such persons to attain their full employment capability, to increase their earned income, and to attain economic self-sufficiency.

"§ 2102. Definitions

"For the purposes of this chapter—

"(a)(1) The term 'eligible veteran' means any veteran who—

"(A) served on active duty for a period of more than 180 days, any part of which occurred after August 4, 1964, and before January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable;

"(B) contracted with the Armed Forces and was enlisted in or assigned to a Reserve component prior to January 1, 1977, and as a result of such enlistment or assignment served on active duty for a period of more than 180 days, any part of which commenced within twelve months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable; or

"(C) was discharged or released from active duty, any part of which was performed after August 4, 1964, and before January 1, 1977, or following entrance into active service from an enlistment provided for under clause (B) of this paragraph, because of a service-connected disability.

"(2) For purposes of paragraph (1)(A) of this subsection and section 1661(a) of this title, the term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve, Marine Corps Reserve, or Coast Guard Reserve unless at some time subsequent to the completion of such period of active duty for training such individual served on active duty for a continuous period of one year or more (not including any service as a cadet or midshipman at one of the service academies).

"(b) The term 'eligible employer', when used with respect to the employment of a

veteran, means any public or private employer (other than a veteran who is self-employed) who meets the criteria set forth in this chapter and such other criteria as the Administrator considers necessary and appropriate.

"(c) The term 'dependent' means—

"(1) a child of an eligible veteran;

"(2) a dependent parent of an eligible veteran; and

"(3) the spouse of an eligible veteran.

"(d) The term 'career development and advancement program' means a program under this chapter that will assist an eligible veteran to acquire full-time permanent employment or to advance in such veteran's chosen career and to increase such veteran's earned income and economic self-sufficiency through a partial subsidy of such veteran's wages and benefits.

"(e) The term 'career development and training program' means a program under this chapter that will assist an eligible veteran to acquire full-time permanent employment, to advance in such veteran's chosen occupation, and to increase such veteran's earned income and economic self-sufficiency through a subsidy of training costs and partial subsidy of such veteran's wages and benefits.

"Subchapter II—Eligibility and entitlement

"§ 2103. Eligibility; entitlement; duration

"(a) Subject to the criteria set forth in section 2122 of this chapter, an eligible veteran is entitled to a career development and advancement allowance or a career development and training allowance in an amount equal to the amount of the entitlement of such veteran, and for the period of the entitlement of such veteran, remaining under the provisions of section 1502 or 1661 of this title.

"(b) Such entitlement may not exceed eighteen months of entitlement at the rate payable to a veteran pursuing a full-time program of institutional training as set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) of section 1682(a)(1) of this title.

(c) A veteran described in clause (1), (2), or (3) of section 2122 (a) of this title whose annual income exceeds $13,000 or a veteran described in clause (4) of such section whose annual income exceeds $11,000 at the time of application for assistance under this chapter may not participate unless the Administrator determines that the participation of such veteran is necessary and appropriate for such veteran's readjustment, rehabilitation, or productive employment.

"§ 2104. Time limitations for completing a program of career development or training

"Notwithstanding the provisions of section 1662 of this title, an eligible veteran may pursue a program of career development and advancement or a program of career development and training if such person otherwise meets the eligibility criteria set forth in this chapter.

"§ 2105. Occupational and vocational counseling

"In addition to the counseling available under section 1663 of this title, the Administrator shall make available such additional occupational skills assessment counseling and assistance as the Administrator considers to be necessary and appropriate for the effective implementation of this chapter.

"Subchapter III—Enrollment

"§ 2111. Selection of program

"Subject to the provisions of this chapter, each eligible veteran may select a program of career development and advancement or a program of career development and training with an eligible employer to assist such veteran in attaining an occupational, professional, or vocational objective or advancement in such veteran's chosen career field (approved in accordance with the provisions of this chapter) selected by the eligible veteran, if such eligible employer hires such veteran into its regular work force with the expectation of permanent employment of the veteran after the training and career development assistance ends.

"§ 2122. Applications; approval

"Any eligible veteran who desires to initiate a program of career development and advancement or career development and training under this chapter shall submit an application to the Administrator which shall be in such form and contain such information as the Administrator shall prescribe. The Administrator shall approve such application unless the Administrator finds that such veteran is not eligible for or entitled to the career development and advancement or career development and training assistance applied for, that the veteran's program of career development and advancement or career development and training fails to meet the requirements of this chapter, or that the veteran is already qualified or such veteran's readjustment or employment would not be assisted or advanced by participation in such program.

"§ 2113. Disapproval of enrollment in certain program

"The Administrator shall not approve the enrollment of an eligible veteran in a career development and advancement or career development and training program of an eligible employer for employment—

"(1) which consists of seasonal, intermittent, or temporary jobs;

"(2) which pays less than $4 per hour (exclusive of benefits and other nonmonetary remuneration) unless the Administrator determines in a particular case that this clause shall not apply;

"(3) which is outside the United States or its territories or possessions;

"(4) under which commissions are the primary source of income;

"(5) which involves political or religious activities;

"(6) which is in an industry in which a substantial number of experienced and able workers are unemployed;

"(7) under which the job is above entry level, except when applicable personnel procedures and collective bargaining procedures regarding the advancement of currently employed workers are complied with;

"(8) which would result in the displacement of any currently employed worker (including partial displacement such as a reduction in the amount of non-overtime work); or

"(9) in a job which if filled would replace any worker who is on layoff or on strike.

"§ 2114. Discontinuance for unsatisfactory conduct or progress

"(a) The Administrator shall discontinue the career development and advancement allowance or the career development and training allowance of an eligible veteran if the Administrator finds that according to the standards that the Administrator may prescribe, or the regularly prescribed standards of the eligible employer, the veteran's conduct or progress is unsatisfactory. Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time the eligible veteran or person is not progressing at a rate that will permit such eligible veteran to complete training, retain such employment, or advance in such career field according to criteria set forth in this chapter or in agreements certified to the Veterans' Administration or within such other length of time (exceeding such approved length) as the Administrator determines to be reasonable in accordance with regulations.

"(b) The Administrator may renew the payment of the career development and advancement allowance or the career development and training allowance only if the Administrator finds that—

"(1) the cause of the unsatisfactory conduct or progress of the eligible veteran has been removed; and

"(2) the program which the eligible veteran now proposes to pursue (whether the same or revised) is suitable to the aptitudes, interests, and abilities of such veteran.

"Subchapter IV—Payments to eligible employers

"§ 2121. Career development and advancement and career development and training allowances

"The Administrator shall, in accordance with the applicable provisions of this title, pay to each eligible employer on behalf of each eligible veteran pursuing a program of career development and advancement or career development and training under this chapter an allowance to meet, in part, the expenses of such veteran's wages, benefits, and training and other necessary or appropriate costs.

"§ 2122. Computation of career development and advancement and career development and training allowances

"(a) Subject to the applicable provisions of subsections (b) and (c) of this section, an eligible employer participating in a program of career development and advancement or career development and training shall be paid a monthly assistance allowance not to exceed the amount set forth in section 1682(a)(1) of this title for a veteran pursuing a full-time program of institutional training as is applicable as determined by the eligible veteran dependency status, for a period of—

"(1) eighteen months, for an eligible veteran who after counseling under the provisions of section 1663 of this title are found to be experiencing serious rehabilitation, readjustment, or employment problems that require an extension of the time period normally authorized to pursue a program of career development and advancement or a program of career development and training;

"(2) twelve months, for an eligible veteran with a service-connected disability who served on active duty during the Vietnam era and is entitled to disability compensation under laws administered by the Veterans' Administration;

"(3) nine months, for an eligible veteran who served on active duty in the Indochina theater of operations or Korea during the Vietnam era;

"(4) six months for all other eligible veterans of the Vietnam era.

"(b) The career development and advancement allowance paid to an eligible employer on behalf of an eligible veteran—

"(1) may not exceed one-third of the gross wages and benefit paid by such employer to such eligible veteran; and

"(2) may not exceed the amount of increased gross wages and benefits of any eligible veteran whose career is advanced under this program.

"(c) The career development and training allowance paid to an eligible employer on behalf of an eligible veteran—

"(1) may not exceed the lesser of the actual cost of training as provided in section 2133 of this title or 50 per centum of the wages and benefits paid by such employer to such eligible veteran, except when intensive training or additional training arrangements are necessary for veterans with severe employability problems, particularly for disabled veterans; and

"(2) may not exceed by more than twice the annual amount of increased gross wages and benefits of any eligible veteran whose career and income has been advanced through training under this program.

"(d) The career development and advancement allowance and career development and training allowance paid under the authority

of this section shall be charged against the period of entitlement of eligible veteran under section 1661(a) of this title.

"§ 2123. Payment of career development and advancement or career development and training allowances

"(a) A career development and advancement allowance may not be paid to an eligible employer on behalf of an eligible veteran employed by such employer and pursuing a program of career development and advancement until the Administrator has received—

"(1) from such veteran a certification as to such veteran's actual employment and attendance during such period; and

"(2) from the eligible employer, a certification or an endorsement on the eligible veteran's certificate, that such veteran or person was satisfactorily employed and pursuing a program of career development and advancement during such period.

"(b) A career development and training allowance may not be paid to an eligible employer on behalf of an eligible veteran employed by such employer and pursuing a program of career development and training until the Administrator has received—

"(1) from such veteran a certification as to such veteran's actual employment, attendance, and training during such periods; and

"(2) from the eligible employer providing the training, a certification (or an endorsement on the veteran's certificate) that such veteran is employed and satisfactorily progressing while pursuing a program of career development and training during such period.

"Subchapter V—Approval

"§ 2131. Approval of programs

"An eligible employer may receive a career development and advancement allowance or a career development and training allowance on behalf of an eligible veteran in a career development and advancement program or a career development and training program offered by such employer only if such program is approved in accordance with the provisions of this chapter.

"§ 2132. Authority for approval

"Subject to the appropriate provisions of this title and such regulations the Administrator may prescribe, a program of career development and advancement or career development and training may be approved—

"(1) by the Secretary of Labor, a prime sponsor designated under section 101 of the Comprehensive Employment and Training Act or, in the case of a program of career development and training involving apprenticeship by an approving agency meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (commonly referred to as the 'National Apprenticeship Act') (20 U.S.C. 5a); or

"(2) by such other means as the Administrator may consider necessary and appropriate.

"§ 2133. Approval of career development and training programs

"(a) Any entity having authority under section 2132 of this title to approve programs under this chapter (hereinafter in this chapter referred to as an 'approving agency') may approve a program of career development and training (other than a program of apprenticeship) only if it finds that the career which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training (to include cooperative training as defined in section 1682(a)(2) of this title), and not on such factors as length of service and normal turnover, and that the provisions of subsections (b) and (c) of this section are met.

"(b) The employer or training establishment offering training which is desired to be approved for the purposes of this chapter must submit to the appropriate approving agency a written application for approval which in addition to furnishing such information as is required by the approving agency, contains certification that—

"(1) the wages and benefits to be paid the eligible veteran (including the career development and training allowance authorized under this chapter) are not less than the wages and benefits paid for the job for which the eligible veteran is to be trained;

"(2) the career development and training allowance paid to such employer does not exceed the actual cost of training the eligible veteran or 50 per centum of the wage paid to such veteran unless intensive training or additional training arrangements are necessary for veterans with severe employability problems and particularly for disabled veterans; and

"(3) there is reasonable certainly that the career or position for which the eligible veteran is to be trained will be available to such veteran at the end of the training period.

"(c) As a condition for approving a program of career development and training (other than a program of apprenticeship), the approving agency must find (upon investigation) that the following criteria are met:

"(1) The training content of the course is adequate to qualify the eligible veteran for appointment to the career for which such veteran is to be trained.

"(2) The career or position customarily requires full-time training for a period of not less than four months.

"(3) The length of the training period is not longer than that customarily required by employers and training establishments in the community to provide a person with the required skills and to arrange for the acquisition of job knowledge, technical information, and other facts which the eligible veteran will need to learn in order to become competent in the career or position for which such veteran is being trained.

"(4) Provision is made for related instruction for an individual eligible veteran who may need related instruction.

"(5) There is in the training establishment or place of employment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

"(6) Adequate records are kept to show the progress made by each eligible veteran toward such veteran's career objective.

"(7) The course of training is not given to an eligible veteran who is already qualified by training and experience for the career or position.

"(8) A signed copy of the training agreement for each eligible veteran including the training program and wage scale as approved by the approving agency, is provided by the employer to the veteran, the Administrator, and the approving agency.

"(9) Reasonable efforts are made to provide special training and employment opportunities and working conditions for disabled veterans.

"(10) The program meets such other criteria as may be established by the approving agency.

"(11) There is a reasonable certainty that the position for which the eligible veteran was hired or the position to which the eligible veteran was promoted will be available to such veteran at the end of the period for which a career development and advancement allowance was paid to the eligible employer.

"(c) As a condition for approving a program of career development and advancement, the approving agency must find (upon investigation) that the following criteria are met:

"(1) The employer is in compliance with the provisions of section 2113 of this chapter.

"(2) The selection of eligible veterans for hiring, upgrading, promotion, or advancement is based upon the potential and qualifications of such veterans for the career or advancement the veteran is seeking.

"(3) The program of career development and and advancement provided eligible veterans with reasonable progression, resulting in qualification for a recognized position of greater skill, responsibility, remuneration, or career advancement in the service of such eligible employer.

"(4) Adequate personnel, attendance, and progress records are maintained.

"(5) The program is designed, to the extent feasible, so that additional vacancies are created for new entry level employment and training opportunities for women and members of minority groups (as determined by the Administrator in consultation with the Director of the Office of Personnel Management.)

"(6) Compensation is paid by the eligible employer at rates, including periodic increases, as are deemed reasonable, considering such factors as industry practice, skill requirements, individual proficiency, geographical region, and the eligible veteran's age, dependency status, and previous work experience.

"(7) The employer is financially sound and capable of fulfilling its commitments.

"(8) A comprehensive job description for each job or position for which approval is requested is made available.

"(9) The eligible employer does not exceed enrollment limitations as established by the approving agency.

"(10) If a career development and advancement program is for or from positions covered by a collective bargaining agreement, arrangements with the eligible employer to carry out the program have the concurrence of labor organizations representing employees in such positions.

"§ 2134. Notice of approval of programs

"The approving agency, upon determining that an eligible employer has complied with all the requirements of this chapter, shall issue a certification to such employer setting forth the jobs or positions which have been approved for a program of career development and advancement or a program of career development and training for the purposes of this chapter and shall furnish a copy of such certificate and any subsequent amendment of such certificate to the Administrator and to the Secretary of Labor. The certificate of approval shall be accompanied by a copy of a catalog or bulletin of the eligible employer, as approved by the approving agency, which shall contain the following information:

"(1) Date of certification and effective date of approval of programs.

"(2) Address and name of the eligible employer.

"(3) Authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the eligible employer.

"(4) Name and description of each job, career, position, or advancement opportunity approved.

"(5) If applicable, enrollment, hiring, and advancement limitations.

"(6) Signature of responsible official of the appropriate approving agency.

"(7) Such other fair and reasonable provisions as are considered necessary by the appropriate approving agency.

"§ 2135. Disapproval of programs

"Any program of career development and advancement or career development and training approved for the purposes of this

chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate approving agency. An eligible employer which has its program disapproved by an approving agency shall be notified of such disapproval by a certified or registered letter of notification, and a return receipt shall be secured.

"§ 2136. Overpayments to eligible employers

"Whenever the Administrator finds that an overpayment has been made to an eligible employer on behalf of a veteran enrolled in a program of career development and advancement or career development and training of such employer as the result of (1) the willful or negligent failure of such employer to report, as required by this chapter and applicable regulations, to the Veterans' Administration excessive absences from work, or discontinuance or interruption of a program of career development and advancement or career development and training by such veteran, or (2) false certification by an eligible employer, the amount of such overpayment shall constitute a liability of such employer and may be recovered in the same manner as any other debt due the United States. This section shall not preclude the imposition of any civil or criminal liability under any other law.

"§ 2137. Discontinuances of allowances; examination of records; false or misleading statements

"(a)(1) The Administrator may discontinue the career development and advancement or career development and training allowance paid to an eligible employer on behalf of an eligible veteran if the Administrator finds that the program of career development and advancement or career development and training or any job, career or position in which such veteran is enrolled or employed fails to meet any of the requirements of this chapter or applicable provisions of this title, or if the Administrator finds that the employer offering such program or employment has violated any provision of this chapter or fails to meet any of the requirements of applicable provisions of this title.

"(2) Any action by the Administrator under paragraph (1) of this subsection to discontinue (or suspend) assistance provided to an eligible employer on behalf of an eligible veteran under this chapter shall be based upon evidence that the eligible employer or eligible veteran is or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance, the Administrator shall immediately provide written notice to such employer and such eligible veteran of such discontinuance, including a statement of the reasons therefor.

"(b) Notwithstanding any other provision of law, the records and accounts of eligible employers pertaining to eligible veterans who have received career development and advancement or career development and training assistance under the provisions of this chapter or applicable provisions of this title, as well as other records which the Administrator determines necessary to ascertain compliance with the requirements of this chapter, shall be available at a reasonable time for examination by authorized representatives of the Government.

"(c) Whenever the Administrator determines that an eligible employer has willfully submitted a false or misleading claim, or that a veteran, with the complicity of an employer has submitted such a claim, the Administrator shall make a complete report of the facts thereof to the appropriate approving agency and, if considered advisable, to the Attorney General of the United States for appropriate action.

"§ 2138. Change of program

"(a) Except as provided in subsections (b) and (c) of this section, each eligible veteran may make not more than one change of program of career development and advancement or career development and training, but an eligible veteran whose program has been interrupted or discontinued due to the veteran's own neglect, or the veteran's own lack of application, shall not be entitled to any such change.

"(b) The Administrator may approve one additional change (or an initial change in the case of a veteran not eligible to make a change under subsection (a)) in program if the Administrator finds—

"(1) the program of career development and advancement or career development and training which the eligible veteran proposes to pursue is suitable to the veteran's aptitudes, interests, and abilities; or

"(2) in any instance where the eligible veteran has interrupted, or failed to progress in the veteran's program due to the veteran's own misconduct, the veteran's own neglect, or the veteran's own lack of application if there exists a reasonable likelihood with respect to the program which the eligible veteran proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

"(c) The Administrator may also approve additional changes in program if the Administrator finds such changes are necessitated by circumstances beyond the control of the eligible veteran.

"(d) As used in this section, the term 'change of program of career development and advancement or career development and training' shall not be considered to include a change from the pursuit of one program to pursuit of another when the first program is a prerequisite to, or generally required for, entrance, promotion, or advancement into pursuit of the second.

"§ 2139. Compliance surveys

"The Administrator shall periodically conduct compliance surveys of eligible employers offering one or more programs of career development and advancement or career development and training approved for the enrollment of eligible veterans under the provisions of this title. Such surveys shall assure that the eligible employer and the approved programs are in compliance with applicable provisions of this title.

§ 2140. Responsibilities of Secretary of Labor

"(a) The Secretary of Labor shall provide for the participation of eligible veterans and persons in career development and advancement and career development and training programs authorized under this Act and section 121(b)(2)(A) of the Comprehensive Employment and Training Act. In carrying out this responsibility, the Secretary of Labor shall consult with and solicit the cooperation of the Administrator. Actions by the Secretary of Labor under this section shall include the development of career development and advancement and career development and training programs, supportive services, technical assistance and training, support for community-based veterans programs, and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation, and employment needs of veterans.

"(b) The Secretary of Labor shall make special efforts to acquaint eligible veterans with the career development and advancement and career development and training opportunities available under this chapter and to coordinate such opportunities with those activities authorized under chapters 41 and 42 of this title and other similar activities carried out by other public agencies and organizations.

"(c) Entities which are prime sponsors under the Comprehensive Employment and Training Act shall provide such arrangements (to include program approval) as may be necessary and appropriate to promote maximum feasible development and use of career development and advancement and career development and training programs and opportunities authorized under this chapter.

"§ 2141. Veterans information and outreach

"The Administrator, in consultation and cooperation with the Secretary of Labor and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Department of Labor to exercise maximum efforts to develop career development and advancement and career development and training programs and opportunities for eligible veterans and to inform such veterans about employment, job development, advancement, and training opportunities under this title and other provisions of law, and to inform prime sponsors, Federal contractors and subcontractors, Federal agencies, labor unions, educational institutions, and employers of their legal responsibilities and opportunities with respect to such veterans and to provide them with technical assistance and training in meeting those responsibilities.

"§ 2142. Program effective dates and termination dates

"The programs of career development and advancement and career development and training established by this chapter shall become effective on September 1, 1980, in the case of eligible veterans with serious readjustment, rehabilitation, or employment problems, disabled veterans, veterans who served in the Indochina theater of operations or Korea, and eligible persons. Such programs shall become effective in the case of all other eligible Vietnam era veterans on April 1, 1981. An eligible veteran must apply for a program of career development and advancement or career development and training under the provisions of this chapter within eighteen months after the effective date of this chapter with respect to such veterans. No career development and advancement or career development and training allowance may be paid to an eligible employer on behalf of an eligible veteran after the end of the 36-month period beginning on the effective date of this chapter with respect to such veteran.".

(b) The tables of chapters at the beginning of such title, and at the beginning of part III of such title, are amended by adding after the item relating to chapter 43 the following new item:

"45. Veterans Career Development, Advancement, and Training Assistance ..... 2101.".

On page 57, line 20, strike out "VII" and insert in lieu thereof "VIII".

On page 57, line 22, strike out "701" and insert in lieu thereof "801".

On page 57, line 24, strike out "702" and insert in lieu thereof "802".

On page 58, line 7, strike out "703" and insert in lieu thereof "803".

SECTION-BY-SECTION ANALYSIS

CAREER DEVELOPMENT ADVANCEMENT, AND TRAINING AMENDMENT

The amendment establishes a new chapter 45 at the end of part III of title 38 United States Code to provide for a program of "Veterans Career Development, Advancement, and Training Assistance".

Subchapter I—Purpose; Definitions

Section 2101—Purpose. Section 2101 defines the purpose of the Career Development Advancement, and Training to:

1. Extend the benefits of a meaningful career to eligible veterans and persons who might otherwise not be able to attain such career opportunities,

2. Provide vocational readjustment and restore lost career opportunities to persons

whose careers were interrupted or impeded by active military duty during the Vietnam era.

3. Aid such veterans in attaining the vocational or occupational status they might normally have aspired to and obtained had they not served their country;

4. Provide an opportunity for Vietnam veterans to attain their full employment capability and increase their earned income and economic self-sufficiency.

The purpose of the Career Development, Advancement and Training Program is the same objective as the educational assistance provided veterans under the GI Bill except the Career Development, Advancement and Training Program guarantees a veteran a job whereas institutional training provides him with education and training which may help him acquire a job. A meaningful career, or career advancement is the ends which the GI Bill was intended to be the means towards, but until the Career Development, Advancement and Training Program, could not insure.

Section 2102—Definitions. Defines "eligible veteran" as a veteran who served between August 4, 1964 and before January 1, 1977 and would otherwise be eligible for GI Bill benefits under chapters 31 or 34 of title 38 U.S.C.

(2) Defines "eligible employer" as any public or private employer excluding self employment that meets the criteria set forth in the program,

(3) Defines "dependent" as:

(a) a child of an eligible veteran;

(b) a dependent parent of an eligible veteran; and

(c) the spouse of an eligible veteran.

(4) A "Career Development and Advancement" program means a program that will assist an eligible veteran to obtain full-time permanent employment or advancement in their chosen career field and increase their earned income and economic self-sufficiency by partially subsidizing an employer's cost of the veterans wages and benefits (excluding training).

(5) A "Career Development and Training" program means a program that will assist an eligible veteran to obtain full time employment, advance in their chosen occupation, and increase their earned income and economic self-sufficiency through the partial subsidization of an employer's training costs, and a partial subsidization of the cost of the veterans' wages and benefits (including training).

Subchapter II—Eligibility and Entitlement

Section 2103—Entitlement.

Entitles a veteran to the amount of readjustment or rehabilitation entitlement they have earned under chapters 34 (Veterans Educational Assistance) or chapter 31 (Vocational Rehabilitation), and still have remaining for periods ranging from 6 to 18 months.

The Career Development, Advancement and Training Program draws solely from the readjustment or rehabilitation benefits veterans have already earned either for vocational rehabilitation (63 months of entitlement) or for education and training (45 months of entitlement). The vast majority of veterans (estimated 90 percent) have sufficient entitlement remaining to participate in the program if they are otherwise eligible. No veteran participating in the program would receive any more benefits than he has already earned or more than any other similarly circumstanced veteran not participating in the program is entitled to.

(b) Limits the entitlement to eighteen months payable at the rate the veteran would be paid (including applicable dependency status) if he were attending school full time under the GI Bill.

Thus an employer participating in a Career Development, Advancement and Training Program would receive in maximum subsidies no more a month than the veteran would receive each month if he were attending college.

(c) Imposes income limitations on veteran applying to participate in the program: $13,000 annual income for disabled and Indochina theater of operations veterans, and $11,000 for Vietnam era veterans who did not serve in Indochina. The Administrator is authorized to wave the income ceilings if he determines a veterans participation in the program is necessary and appropriate for the veterans readjustment, rehabilitation and/or productive employment.

The income ceilings will insure that the program is targeted to needy unemployed and underemployed veterans. The VA contends that 70 percent of Vietnam era veterans have incomes in excess of $13,000, thus unless they demonstrated need they would be ineligible to participate. This will limit the cost of the program while only having a small effect on program effectiveness. Under the current GI Bill many of the most needy and deserving veterans can not afford to participate in training, while many veterans who are less needy are receiving full benefits for attending community colleges at night. The use of the current GI Bill has been and still is inverse to the need for readjustment assistance. The Career Development, Advancement and Training Program's use will be directly related to unemployed and underemployed veterans who have the greatest need for employment, training, and advancement assistance.

Section 2104 Waiver of time limitation for program completion.

This section waives the 10 year "delimiting period" for use of readjustment benefits.

This provision will insure that needy veterans who are otherwise eligible will be able to participate in the Career Development, Advancement and Training Program notwithstanding that they have been separated from the service for more than ten years.

Section 2105 Occupational and vocational counseling.

This section entitles eligible veterans to vocational and occupational counseling authorized under chapter 34 and such additional counseling as may be necessary and appropriate for an effective Career Development, Advancement and Training Program.

Subchapter III—Enrollment

Section 2111 Selection of program.

This section authorizes a veteran to select a program provided it complies with the provisions of this act and results in fulltime permanent employment after the employer's Career Development, Advancement and Training subsidy ends.

Section 2112 Applications and approval.

Authorizes the Veterans Administrator to devise application forms containing relevant requests for information to determine eligibility, and to disapprove persons who are ineligible or already qualified.

Section 2113 Disapproval in certain programs.

This section precludes Career Development, Advancement and Training Programs for:

1. Seasonal, intermittent, or temporary jobs,

2. Jobs that pay less than $4.00 an hour,

3. Jobs outside of the United States and its possessions,

4. Jobs where commissions are the primary source of income,

5. Jobs that involve political or religious activity,

6. Jobs found in industries with substantial numbers of experienced and able workers who are unemployed,

7. Jobs above entry level unless collective bargaining and applicable personnel procedures are complied with.

8. Jobs that would displace currently employed workers,

9. Jobs that would replace workers on layoff or strike,

10. Self-employment.

Section 2114 Discontinuance for unsatisfactory conduct or practice.

Authorizes the Administrator to discontinue payments for unsatisfactory progress, and establishes criteria for renewing payments.

Subchapter IV—Payments to Eligible Employers

Section 2121 Authority for payment of allowances to employers.

This section authorizes to pay eligible employers Career Development, Advancement and Training Allowances.

Section 2122 Computation of allowance payments.

A Career Development and Advancement Allowance will be paid to an eligible employer to partially subsidize the wages of an eligible veteran who is permanently employed by such employer for a period of 6 to 18 months. The allowance can not exceed one third of the monthly wages paid to the veteran or the monthly amount the veteran would receive in chapter 34 (educational) benefits for full time training predicated upon his or her dependency status.

The sliding scales would provide incentive for employers to hire disabled and combat veterans and advance veterans to higher paying positions because of greater Federal subsidation: Maximum allowances under the program would be:

(A) Veterans and eligible persons determined after counseling to have serious rehabilitation, readjustment or employment problems up to eighteen months of entitlement would be permited:

1. No dependents, $5,598.
2. One dependent, $6,660.
3. Two dependents, $7,596.
4. Each additional dependent, $468.

(B) Disabled veterans would be entitled to 12 months of assistance:

1. No dependents, $3,732.
2. One dependent, $4,440.
3. Two dependents, $5,064.
4. Each additional dependent, +$312.

(C) Veterans who served in the Indochina Theater of Operations and Korea and eligible persons would be entitled to 9 months of assistance:

1. No dependents, $2,799.
2. One dependent, $3,330.
3. Two dependents, $3,800.
4. Each additional dependent, +$224.

(D) Vietnam era veterans who did not serve in Indochina and Korea would be entitled to 6 months of assistance:

1. No dependents, $1,866.
2. One dependent, $2,220.
3. Two dependents, $2,799.
4. Each additional dependent, +$156.

The majority of veterans would fall into category (D) thus the cost per veteran placed, advanced or trained would be kept to a minimum.

The allowance could not exceed the amount of wage increase in the case of a veteran whose career is advanced through promotion under the program. A promotion from a $12,000 job to a $13,500 job would entitle an eligible employer to a career advancement allowance of $1,500.

A career development and training allowance will be paid to cover the actual cost to training and a partial wage subsidation not to exceed fifty percent of the wages and benefits paid to an eligible veteran or person. Exceptions are permitted where intensive training or additional training arrangements are necessary for persons with severe employability problems particularly disabled veterans. Criteria for approval are established in the legislations. The training allowance cannot exceed twice the annual amount of increased wages of a person whose career and income is advanced under this program.

Thus the VA could pay up to $4,000 if

that were the actual cost of training to increase a $10,000 career to $12,000.

The career development advance and training allowances paid eligible employers will be drawn against the existing GI Bill entitlement of eligible veterans and persons in the amount used.

Section 2123. Payment of career development advancement and training allowances.

No employer will be paid a career development and advancement allowance or a career development and training allowance unless the Veterans Administrator has received:

1. from the veteran or eligible person a certification or voucher certifying his/or employment attendance and wages during the period for which payment is sought.

2. from the employer a certification, voucher or endorsement of the eligible veterans or persons voucher or certification of such persons employment, attendance and wages.

Where the program involves training the certification or voucher must also attest to satisfactory progress in the required training.

This system of employee-employer checks and balance will preclude abuse of and fraud in the program and is compatible with the system used in VA OJT and Apprenticeship benefit programs.

Subchapter V—Approval

Section 2131. Approval of programs.

Provides that no career development, advancement or training payments shall be made unless programs are properly approved.

Section 2132. Authority for approval.

Subject to the provisions of program, title 38 and such regulations the Administrator may prescribe a program may be approved by:

1. A State Approving Agency authorized under chapter 36 of title 38.

2. The Secretary of Labor.

3. A CETA prime sponsor subject to the provisions of this act.

4. An approving agency meeting the standards of apprenticeship publicized by the Secretary of Labor.

5. By such other means as the Administrator deems necessary and appropriate.

Section 2133. Approval of career development and training programs.

Establishes comprehensive standards for approval of career development and training programs to insure quality training programs and preclude abuse. The standards are comparable to those required for Veterans Administration on the Job Training Programs.

Establishes comprehensive standards for the career development and advancement program to insure program effectiveness and preclude abuse. Assures that high standards in hiring and promotion are adhered to. The criteria are similar to those required of CETA skill upgrading programs.

Section 2134. Notice of approval of programs.

Provides for the announcement of approved programs, and a discretion of career development and advancement and career development and training opportunities offered by such employers.

Section 2135. Disapproval of programs.

Provides for the disapproval of programs failing to meet the requirements of the program, and notification of disapproval.

Section 2136. Overpayments to eligible employers.

Provides for the collection of overpayments as a result of willful misconduct or false certification on the part of an employer in the manner of debt owed to the United States.

Section 2137. Discontinuance of allowances; examination of records; false or misleading statements.

This section grants the necessary authority to insure program quality, prevent abuse, and make necessary evaluations. It also grants the Administrator the authority to prevent and take action against false and misleading statements.

Section 2138. Change of program.

Authorizes one change of program. Provides sanctions and counseling provisions for veterans who are not satisfactorily progressing in their programs.

Section 2139. Compliance surveys.

Authorize the Administrator to make compliance surveys of participating employers.

Section 2139. Cooperation.

Requires extensive and comprehensive cooperation and coordination with the Department of Labor in the implementation of the program to include:

1. Approval of eligible employers.

2. Development and enforcement of approval standards

3. Development of informational material as may be necessary for the program.

Section 2140. Department of Labor responsibilities.

Requires the Secretary of Labor to take appropriate steps to provide for participation of eligible veterans and persons in career development and advancement and career development and training programs; in cooperation with the Veterans Administration. Such steps include program development, supportive services, technical assistance and training, support for community based veterans programs, and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation and employment needs of veterans. These steps are mandated Department of Labor Responsibilities under CETA.

This section requires CETA prime sponsors to develop in cooperation with the VA approval arrangements.

Section 2141. Veterans information and outreach.

Requires the Veterans Administration in cooperation with other Federal agencies to carry out a comprehensive outreach and information program to develop career development and advancement and career development and training opportunities for eligible veterans.

Section 2142. The effective date of this program is as follows:

September 1, 1980 for those veterans, who after counseling are determined to have serious, readjustment, rehabilitative or employment problems, for disabled veterans, and for Indochina theatre of operations veterans; March, 1981 for Vietnam era veterans.●

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 690

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

OIL IMPORT RESTRICTIONS

Mr. JOHNSTON. Mr. President, I intend to offer an amendment to H.R. 3919 with the concurrence of the distinguished floor manager for the majority (Mr. LONG) that the Senate reaffirm its position that the Congress should have a role in any decision by the President to impose a quota on the total volume of petroleum imported into the United States or a substantial fee, duty or tariff on such imports.

On October 30, 1979, by a vote of over 3 to 1—70 to 23—the Senate adopted the concept embodied in the language I am offering today. That vote added an amendment to S. 1871, a bill extending the life of the provisions of the Energy Policy and Conservation Act which provide a limited antitrust defense to oil companies participating in the international energy program. Subsequently, the House of Representatives returned S. 1871 to the Senate on the grounds that this amendment, while not necessarily objectionable on substantive policy grounds, nevertheless infringes on the prerogatives granted to the House under the Constitution to originate legislation affecting the revenues of the Federal Government. I recognize this strongly held view of the House.

I am, therefore, offering essentially the same amendment to H.R. 3919, a revenue bill (of immense revenue proportions) which in fact originated in the House. The policy proposed is the same: That the Congress ought to have a meaningful role in decisions of the magnitude, in economic terms, of the establishment of a quota on the total volume of petroleum imports or the limitation of such imports through the pricing mechanism, using a fee, duty, or tariff. This issue transcends jurisdictional considerations. I know that the managers of the bill are in agreement with me on this point. Therefore, I am confident that they will lend the full force of their influence in support of this provision in the House-Senate conference on H.R. 3919.

The administration did not oppose this amendment when it was offered on October 30, 1979, to the legislation extending the life of the statutory antitrust defense for oil companies cooperating with the International Energy Agency. The administration does not oppose it now. This is a welcome recognition by the executive branch of the need for cooperation and national unity on an issue of such major economic importance as the issue of the level of U.S. petroleum imports. To be credible in the international community, and credible with the OPEC cartel, the United States must espouse a unified, coherent position. This amendment assures that this will be the case with regard to petroleum import policy.

Mr. President, the legislative history of this provision should be clear with regard to the impact of my amendment on the President's authority to implement, without congressional review, a limitation on the importation of petroleum from a particular nation for purposes of national security. The President has exercised authority currently available to him under section 232(b) of the Trade Expansion Act of 1962 to prohibit the importation of crude oil and petroleum products produced in Iran. The vast majority of the American people and, I believe, a substantial majority of Congress, are in support of this action by the President.

My amendment would not in any way restrict the authority of the President to take this action or another similar to it. This amendment addresses the bottom line with regard to petroleum imports,

that is, the total volume of imports, not the value of individual terms in the equation for the calculation of that bottom line. What we are attempting to do is to prevent the President from employing his authority under existing law to create gasoline lines or heating oil shortages without congressional involvement. The existence of any such shortage is a function of the total level of imports of petroleum into the United States. A limitation on imports from a particular nation (such as Iran) need not limit this total volume of U.S. petroleum imports. And the President, in forbidding Iranian oil imports, has not in fact proposed any limitation on the total volume of petroleum imported into the United States. The amendment I am offering would leave the President free to control imports from a particular nation for purposes of national security, while requiring congressional review of any proposal to limit the total volume of imports (or a fee on imports) from all countries supplying the United States with imported petroleum.

Mr. President. The amendment I am offering has passed the test of Senate approval in previous action on the Senate floor. That action did not result in serious consideration of this very important policy issue by the House because of institutional (rather than substantive) considerations.

I hope to overcome the institutional barriers to consideration of the substantive issues with the introduction of this amendment to H.R. 3919. I hope the Senate will reaffirm its support of these basic policy considerations in its support of my amendment.

AMENDMENTS NOS. 691 THROUGH 693

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 694

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 695

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself and Mr. ARMSTRONG) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 696

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 697

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 698

(Ordered to be printed.)

Mr. BOREN proposed an amendment to H.R. 3919, supra.

AMENDMENT NO. 699

(Ordered to be printed.)

Mr. BENTSEN (for himself and others) proposed an amendment to H.R. 3919, supra.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of an open business meeting of the Select Committee on Indian Affairs.

The meeting is scheduled for December 5, 1979, beginning at 10 a.m. in room 6228, Dirksen Senate Office Building. The following bills are to be considered for markup: Senate Joint Resolution 108, a bill to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; S. 1730, a bill to declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe; S. 1832, a bill to extend the authority of the Secretary of the Interior to declare and proclaim land to be Indian reservation land; and, S. 1273, a bill to restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to certain bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes.

For further information regarding the business meeting you may wish to contact Max Richtman of the committee staff on 224–2251.●

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources has scheduled a closed hearing to review the current status of the Strategic Petroleum Reserve program.

The hearing will be held on December 13, 1979, at 8:30 a.m. in room S–407 of the Capitol.

Questions regarding this hearing should be directed to George Dowd of the subcommittee at (202) 224–2564.●

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

● Mr. STONE. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices chaired by Senator HUDDLESTON, and the Subcommittee on Foreign Agricultural Policy which I chair, have scheduled joint hearings on potential problems in the U.S. transportation system. Specifically, the two subcommittees will consider the impact of the recent Soviet grain sales on the transportation capabilities of the United States. The subcommittees will hear from invited witnesses only, but statements submitted for the record are welcome.

The hearings will be held on November 28 and 29 beginning at 9:30 a.m. in room 457, Russell.

Anyone wishing further information should contact the Agriculture Committee staff at 224–2035.●

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

● Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, of which I am chairman, will conduct oversight hearings on rushed, or "hurry-up" spending by Federal agencies at the end of the fiscal year, on Thursday, November 29, at 9:30 a.m. in room 1318 of the Dirksen Senate Office Building.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of an oversight hearing before the Select Committee on Indian Affairs.

The hearing is scheduled for December 17, 1979, beginning at 10 a.m. in room 1202, Dirksen Senate Office Building. The purpose of the hearing is to determine whether the April 1, 1980, statute of limitations deadline for commencing actions on behalf of an Indian tribe, band, or group by the Federal Government should be extended.

For further information regarding the hearing you may wish to contact Pete Taylor of the committee staff on 224–2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold an executive session for a State Department briefing on the situation in Iran, Saudi Arabia, and Pakistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the sessions of the Senate today and Tuesday, November 27, 1979, beginning at 2 p.m. to hold markup sessions on the Criminal Code.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 29, 1979, to hold a markup session on Senate Concurrent Resolutions 51 and 52 concerning Rhodesia.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Friday, November 30, 1979, to hold a hearing on FTC oversight on divestiture.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT INVESTIGATION SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Permanent Investigations Subcommittee of the Committee on Governmental Affairs be authorized to meet during the sessions of the Senate on Tuesday, November 27, 1979, Wednesday, November 28, 1979, Thursday, November 29, 1979, Friday, November 30, 1979, and Tuesday, December 4, 1979, to hold hearings on professional motor vehicle theft.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate on Thursday, November 29, 1979, to hold a hearing on pending judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

OVERSIGHT OF GOVERNMENT MANAGEMENT SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Oversight of Government Management Subcommittee of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, November 29, 1979, to hold a hearing on hurry-up spending.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

AMENDMENTS TO FISHERMEN'S PROTECTIVE ACT OF 1967

● Mr. PACKWOOD. Mr. President, I have introduced an amendment to the Fishermen's Protective Act which will allow American fishermen to finally receive the benefits Congress intended for them. The Committee on Commerce, Science, and Transportation has unanimously adopted my amendment and reported it to the Senate for approval.

For years, Russian, Polish, Japanese, Spanish, and Mexican fishermen have taken advantage of America's abundant fishery resource. This year, foreign harvests within the 200-mile U.S. fishery zone will amount to 2½ times the domestic harvest. Each year they inflict damage to boats and gear of American fishermen amounting to hundreds of thousands of dollars. In the past, various complicated subsidized loan programs were created to help American fishermen purchase new gear to replace that damaged by the foreign fishing vessels. Sometimes the United States was reimbursed by the guilty foreign fishing operations. More often than not, however, the United States was never able to collect.

Last Congress, we amended section 10 of the Fishermen's Protective Act, and did away with this cumbersome mechanism. Under that legislation, foreign fishermen are finally forced to bear the financial responsibility for the damage they inflicted upon U.S. fishing gear and vessels.

Foreign vessels fishing within the 200-mile U.S. fishery conservation zone are assessed a foreign fishing fee, the receipts from which are placed in the fishermens compensation fund. The moneys in the fund are used to compensate fishermen for damage to their vessels if caused by foreign or U.S. fishing activity within our 200-mile fisheries zone, and for damage to their gear if caused by foreign fishing activity or acts of God, such as hurricanes.

The average payment received thus far has been about $8,000. In my own State of Oregon, several fishermen have received payments ranging from $2,452.02 to $12,456.77. The new program is in its infant stages, yet shows promise of being workable and capable of fulfilling our intent. However, a problem has arisen.

Under current law, fishermen must file a claim within 60 days after discovering the damage. Due to administrative delays, the fishermen's compensation program was not formally begun until this November, 11 months after we intended it to start. In fact, the claim application forms have yet to be printed as of this date. Thus, many fishermen who suffered damages did not learn of the program until after their 60-day filing deadline had elapsed.

Now that the program is on its feet, and informational workshops are being conducted throughout the country, fishermen are learning of the availability of compensation.

The amendment I have offered, and which the Commerce Committee has accepted, would temporarily waive the 60-day filing requirement until January 24, 1980, which is 60 days after the final regulations for the program become effective and well after fishermen throughout the Nation have learned of this program's existence. In Oregon, at least four fishermen have been denied eligibility because they filed their claim after the 60-day filing deadline. This is hardly fair, since the National Marine Fisheries Service did not inform those four fishermen of the program's existence until after the 60-day filing period had elapsed. My amendment will allow those four fishermen, and dozens of others throughout the country, to file a claim.

This is one Federal program which will not be charged to U.S. taxpayers. The Russians and Japanese, among other foreign fishermen, are paying for this program. It will not cost U.S. taxpayers one cent.

I am pleased that the administration has recognized the intent of the legislation we passed last year, and now supports this amendment.

This legislation is part of a comprehensive plan to protect American fishermen from government-financed fishing operations of foreign countries. Our goal must be to displace all foreign fishing within our 200-mile fishery zone. Making the foreign fishermen pay for the damage they inflict upon U.S. vessels and gear is another step in that direction.●

ESSENTIAL RAIL SERVICES MUST BE PRESERVED

● Mr. CULVER. Mr. President, a recent editorial by the Des Moines Register posed a central question concerning the future of American railroads: Should they be operated as a public service, purely as a private business, or some hybrid combining elements of both? The question is also an extremely timely one for Congress, which has debated the future of Amtrak, the Rock Island Railroad, and the Milwaukee Railroad this year.

The Register article answers this question by forcefully arguing that railroads—indeed, all modes of transportation—must be viewed as more than a private business enterprise. Like utilities, they often provide essential services to small communities and rural areas that cannot be duplicated effectively or economically by other modes or entities. While the editorial does not favor "freezing" our existing rail network in place—we can all agree that there is an excess of track and some outmoded lines must be abandoned—it does recognize that essential lines must be preserved, even when they cannot be guaranteed to make a profit.

I believe that it is time for this country to undertake a comprehensive effort to revitalize our Nation's critically important lines. Congress must make the same commitment to the railroads as it did for highways when it authorized the Interstate Highway system. We must repair the rail beds, purchase new boxcars, hopper cars and locomotives, and improve efficiency at switching yards. A sound, modern rail system is potentially the most energy-efficient mode of transportation we have.

In order to take the necessary first step in rebuilding our railroads, Senators McGOVERN, DURKIN, and I will introduce an amendment to the windfall profit tax legislation to provide $10 billion to revitalize our freight and passenger rail system when the Senate considers this legislation. This amendment is an investment which will pay great dividends in the future and will help provide the capital needed to begin building the kind of railroad system America needs.

I ask that the editorial which appeared in the Register be printed in the RECORD.

The editorial follows:

SERVICE OR PROFIT FIRST?

Should railroads be operated like highways for public service, as in most of the world, or as business enterprises with some elements of public service, as in the United States? Albert Karr of the Wall Street Journal, in an article on this page, is mildly hopeful that government policy may be swinging toward the business concept.

Is that a cause for rejoicing anywhere except in corporate boardrooms? Is a profit-only reorganization of the remains of the doomed Rock Island Lines and Milwaukee

Road in the best interest of Iowans? It has long been understood that transportation and communication cannot be limited to areas that pay their own way—that if profits from well-situated routes don't cover losses of less-favored ones, public support is necessary.

Railroads, like electric utilities, provide important services that are tied to specific areas. If Chrysler cars should no longer be manufactured, General Motors and Ford would build more, and nobody, anywhere, would be deprived of a car. But if, in the corporate death of the Rock Island, the line through, say, Pocahontas should be torn up, Pocahontas would lose all rail service. Not every branch of a rail network built in the pro-highway era should be saved, but a worsening energy outlook demands an improved rail system in which not every line can be measured solely by profit-loss figures.

Neither nationalized nor private railroading is divinely right, and neither is inherently wrong. Pragmatism decided the issue in Canada nearly 60 years ago when a prospering rail system was left in the private sector while the federal government gathered the bankrupts into what has become a prospering national system.

Pragmatism ruled in Europe, too. Most European railroads began as private companies, and many continued so into the 1930s (France) and the 1940s (Britain). When the going got tough, though, governments did not allow the railroads to decay, as has happened in much of the United States, they nationalized and they maintained and improved service.

In this country, unlike Europe, long freight hauls and an always relatively small passenger operation have kept the railroads healthy longer than in Europe. Quite a few are still making good money and providing good service. It is instructive to remember that the first major collapse occurred in the Northeast, where traffic and operating conditions most resembled those of Europe.

Now the spotlight has moved to the Midwest, where two railroads are dying and several others are sickly. Karr points out approvingly that the government has long wished that the Rock Island would go away, as a means of reducing excess trackage. But this is a rough, inequitable means of doing what indeed does need to be done.

In theory, essential routes will be acquired by railroads that have been more successful as money-makers. In practice, what is likely to be saved are lines that have a potential for profit.

This is not an argument for federal money to save every branchline that serves two grain elevators. It is a suggestion that transportation is more than just a business—a fact Americans recognize with highways, waterways and airways, and the rest of the world recognizes with railways, too.●

CONGRESS DOES NOT NEED TAXFLATION

● Mr. DOLE. Mr. President, there are a number of reasons why the Congress has failed to index the Federal income tax for inflation. One of the arguments most frequently heard is that Congress prefers to make periodic tax cuts so that it can structure tax reduction in response to the appeals of special interest groups. The consequence of this preference is is that tax cuts do not really match the effects of inflation, and people regularly pay higher taxes, despite tax cuts.

There are many arguments, based on political, economic, and ethical considerations, why this situation should not be allowed to continue. The Senator from Kansas has elaborated on many of these points. But it also ought to be pointed out to the Members of Congress that their own interests would be better served by automatic inflation adjustments in the tax system.

The problem with periodic tax cuts is that there are always so many interest groups that feel entitled to a new tax break. Others simply want to preserve an existing benefit under the tax code. No Member of Congress can possibly satisfy all of the interests to which he feels obliged. The probability is that more of the petitioners for tax breaks will be disappointed than are satisfied. This is not a recipe for Members to gain a political advantage out of tax cuts. The problem is particularly acute when Members know that the revenues they are cutting were simply generated by inflation, so that they get a free ride in handing out tax benefits.

There is also the general public interest to consider. As people realize that tax reductions are largely a holding action against inflation, their gratitude for such reductions is less and less. As a matter of political arithmetic, the equation will become increasingly unfavorable for Congress. The more often the cycle of phantom tax cuts recurs, the worse the arithmetic will become. The Members of Congress need a way out of this cycle.

Mr. President, the way is available. I have introduced the Tax Equalization Act, S. 12, which would index the Federal income tax for inflation. Tax brackets, the zero bracket amount, and the personal exemption would be changed automatically to reflect the previous year's inflation. Congress would not need to set forth a tax package every year just to compensate for inflation.

Mr. President, there would be another benefit. Congress would still need to change the tax laws, but they would do so in order to address fundamental social and political problems. That is what we ought to be doing anyway. Indexing will make tax policy clearer, and the policy-making process will be less burdensome for Congress. There is no need to make things more uncertain, for both Congress and the people, by constantly fiddling with the tax rates. The Tax Equalization Act gives us an opportunity to get back on the track, and it is an opportunity we should seize.●

FIFTIETH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER AS THE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, in recent years, Herbert Hoover's standing has surged in the eyes both of historians and the American people, as the true magnitude of his intellect and achievements have come to be realized. Fortunately, this improvement in his standing began during his lifetime, so that Hoover knew that those who derided him, and judged him insensitive to the suffering widely experienced during the Great Depression, did not express the final judgment. At Hoover's 75th and subsequent birthdays, for example, there were great outpourings of positive public sentiment and warmth, led by festivities in his honor and editorials in newspapers across the country.

Eugene Lyons, noted author of two biographies of Hoover, has submitted to me excerpts from his second biography which summarize his own view of Hoover, and describe the public outpouring of affection for "the chief" beginning at his 75th birthday.

Lyons recalls Hoover's own words at West Branch, Iowa during the celebration of his 80th birthday:

Among the delusions offered us by fuzzy-minded people is that imaginary creature, the common man. The whole idea is another cousin of the Soviet proletariat. The uncommon man is to be whittled down to size. It is the negation of individual dignity, and a slogan of mediocrity and uniformity.

The common man dogma may be of use as a vote-getting apparatus. It supposedly proves the humility of the demagogues.

The greatest strides of human progress have come from uncommon men and women. You have perhaps heard of George Washington, Abraham Lincoln, or Thomas Edison. They were humble in origin, but that was not their greatness. The humor of it is that when we get sick, we want an uncommon doctor. When we go to war, we yearn for an uncommon general or admiral. When we choose the president of a university, we want an uncommon educator.

The imperative need of this nation at all times is the leadership of the uncommon men or women. We need men and women who cannot be intimidated, who are not concerned with applause meters, nor those who sell tomorrow for cheers today.

Eighty years is a long time for a man to live. As the shadows lengthen over my years, my confidence, my hopes and dreams for my countrymen are undimmed. This confidence is that with advancing knowledge, toil will grow less exacting; that fear, hatred, pain and tears may subside; that the regenerating sun of creative ability and religious devotion will refresh each morning the strength and progress of my country.

Mr. President, I request that the excerpts from Mr. Lyons' book, as well as a brief biographic sketch of the author, be printed in the RECORD, as one of the series of essays offered to commemorate the 50th anniversary of the inauguration of Hoover as our 31st President.

The material follows:

BIOGRAPHIC SKETCH OF EUGENE LYONS

Born: July 1, 1898.

Education: City College of New York, 1917–18; Columbia, 1918–19.

Professional experience: Erie (PA) Dispatch, 1920; Boston Telegram, 1922; Editor, Soviet Russia Pictorial, 1922–23; Assistant Director, Tass Agency, 1923–27; United Press correspondent in Russia, 1928–34; Member, Ames and Norr, Public Relations, 1935–39; Editor, The American Mercury, 1939–44; Editor, Pageant, 1944–45; Roving Editor, The Readers Digest, 1946–52; and Senior Editor, The Readers Digest, 1952–68.

Publications: The Life and Death of Sacco and Vanzetti, 1927; Moscow Carousel, 1935; Assignment in Utopia, 1937; Stalin, Czar of all the Russias, 1940; The Red Decade, 1941; Our Unknown Ex-President, a Portrait of Herbert Hoover, 1948; Our Secret Allies: The Peoples of Russia, 1953; The Herbert Hoover Study, 1959; Herbert Hoover, a Biography, 1964; David Sarnoff, a Biography, 1966; Workers Paradise Lost: 50 Years of Soviet Communism: A Balance Sheet, 1967; Editor:

We Cover the World, 1937; and Six Soviet Plays, 1934.

THE TIME OF VINDICATION

(Chapter 33 of Herbert Hoover: a biography, by Eugene Lyons.)

The crescendo of Herbert Hoover's restoration to public favor reached a high point on his seventy-fifth birthday, on August 10, 1949. Apparently the magic figure seventy-five offered a welcome occasion for expressing admiration, on the one hand, and on the other for a psychological catharsis: the atonement of an injustice that weighed on the country's conscience.

His birthday in the preceding year, the seventy-fourth, decidedly had not been slighted. He had returned to his native West Branch, Iowa, as guest of the state. Some twenty thousand people crowded into the Quaker village to do him honor. From coast to coast, press and radio fulsomely reported and greeted the event. The subject of Hoover's address was "The Meaning of America," which he had first learned, he said, in his boyhood, then deepend through living in many foreign lands. The core of that meaning was freedom. If preserved, its moral and spiritual essence would assure "centuries of further greatness for America."

But it was the seventy-fifth birthday that somehow crystallized national sentiment and defined the "image" of Hoover which thereafter gained prominence in the public mind. Never before had a living former President been the object of such a vast and sentimental outpouring of eulogy. The dominant emotions, in some cases explicit and everywhere implicit, were regret over past vilification and delight that he was still alive to witness the great change of heart.

Having recalled that "his distinguished career of public service was forgotten in a storm of insult and criticism," *Collier's* editorially declared itself "happy that Mr. Hoover's deserved reward of public esteem has come to him in his lifetime." The Miami *Herald*, to quote one of hundreds of statements in the same vein, wrote:

Honesty compels the admission that the American people humiliated their ex-President. Hoover accepted the situation with dignity. He was confident that time would vindicate him. It has. What is particularly gratifying on his seventy-fifth birthday is that he has lived to see the vindication.

A number of Hoover's friends had decided that the three-quarters of a century milestone called for a big birthday party. This thought they relayed to loyal Hoover-men in a number of communities. There was no committee, no chairman, no "program"—just an idea tossed into the air. But it caught on and spread fast. The idea was that the country ought to let its thirty-first President know how it felt about him "while he was still alive to hear it."

The first difficulty was with the Chief himself. It developed that he preferred fishing to parties and had already arranged a fishing expedition for the natal week. Pressures and maneuvering were required before he agreed to speak on August 10 at Stanford University. As the day approached, what was to be a local home-town observance snowballed into a nationwide and even worldwide celebration.

Congress, in a joint resolution extending "its cordial greetings," expressed "admiration and gratitude for his devoted service to his country and to the world," and "hope that he be spared for many years of useful and honorable service." Democrats joined Republicans on the floor of both chambers in presenting oratorical bouquets.

A dozen governors issued eloquent tributes in the name of their citizenry. Literally hundreds of notables from all departments of American life joined the chorus. Some one hundred foreign organizations and governments added their mead of praise.

There were words of homage to Hoover on hundreds of radio programs and birthday editorials in virtually every newspaper in the country. It all amounted to a national reassessment, largely in a spirit of regret and reproof for past abuse, and it reached all but unqualified agreement that Hoover was "a great American" and "a great humanitarian." There was considerably less than unanimity on the conclusion that he was also "a great President." Those who withheld this particular accolade, however, emphasized that he had not been as bad as he was painted, having been falsely and unjustly blamed for sins in the Presidency that he had not committed. The always recurring words in the massive tribute were "integrity" and "selfless service."

David Hinshaw read and analyzed over two thousand of the editorials from all forty-eight states. A year later, in his book, *Herbert Hoover, American Quaker*, he published pagefuls of typical or significant excerpts. Fewer than two dozen, of all, he found, still clung to some of the old anti-Hoover clichés. They were still annoyed with his high collars, which he had long since discarded, and with statements like "prosperity around the corner," which he had never made. A few still resented his handling of the prohibition issue. But 98 percent of the editorial writers played on their typewriters enthusiastic variations on the themes of affection, gratitude, and admiration, with some high notes of reverence.

Running through many of these birthday eulogies, inevitably, was the recognition that Hoover was not a dexterous politician. In this week of celebration, however, that fault rang like a special Hooveresque virtue. "His sin," said one newspaper, "was that he was not also a great politician. Essentially a man of reason and intellect, he was not an emotional leader capable of inflaming the minds of others." Another summed him up as "an honorable gentleman, one perhaps not fitted by nature for the rough-and-tumble hurly-burly of partisan politics, because he would not make tongue-in-cheek promises, because he would not sway with the political winds, because he would not align class against class for political expediency—but nevertheless one of our greatest citizens and one whom history undoubtedly will recognize as one of our greatest Presidents."

What follows is an attempt to make what movie people in their own medium call a "montage"—a single eulogy based on dozens cited by Hinshaw, every word drawn from an actual editorial:

There is a man whose name has been vilified but whose countrymen have now come to love and respect him as indisputably our most distinguished private citizen. That man is Herbert Hoover. The sunshine of the nation's gratitude is in his afternoon; full and fair the sunlight falls on Herbert Hoover. The people of the Shadow, his detractors? They have passed "in a desperate disarray over the hills and far away."

The American people acknowledge the high stature of Herbert Hoover, his contributions to the public welfare and his personal virtues of integrity and constancy in the fact of unjust and undeserved belittlement and criticism. The American people have slowly become aware of his great worth and the magnitude of the injustice that was done him. He is honored, in truth, not so much as a former President but as a great American.

Not often has there been so widespread and spontaneous a desire to honor such a man in his lifetime. Herbert Hoover is growing in strength among his fellow Americans and to him they turn more often when words of wisdom are needed. He has come to be one of the most respected and admired Americans that ever lived.

People are just beginning to recognize the solid virtue of this man who is so typically American. Herbert Hoover, influenced by the Quaker faith to which he adhered, never developed the capacity to hate those who criticized and reviled him. He hated only those things which he conceived to be wrong, and when he was stirred to anger on this score he was always righteously indignant. Through it all he kept, even as now, his faith in the everlasting righteousness of justice and fair play. He enjoys the admiration and respect now of many people who once hated and abused him. But he has always been what he is today, a fine unselfish public citizen devoted to the welfare of his country and the world.

Like only one or two other statesmen in our history he has been able to go from service to service, making the Presidency only one step in a career which reaches its climax in the total and cumulative record of work done, good causes unselfishly pursued and arduous responsibilities carried through to the end. If ever a man is entitled to feel the deepest kind of satisfaction and content, it is Mr. Hoover at this milestone.

Few men have in their lifetimes undergone such profound fluctuations in public esteem. He has maintained his dignity and composure in victory and defeat. In perspective it can be seen that his public service was all of a piece—patriotic, sincere, humanitarian, and staunchly built on unshakable principle.

The American people are showing a somewhat belated sense of justice in honoring a man who has been viciously and savagely maligned during most of his career. The present high position of Mr. Hoover, along with the great esteem and appreciation in which, regardless of party or class, he is held by the American people generally, is a thrilling demonstration that occasionally the right really does prevail and this appreciation comes before it is too late.

From the peak of achievement he was plunged into a morass of misrepresentation and vilification which would have broken the heart of anyone less valiant. But when abuse was at its highest, Herbert Hoover was at his serenest. And now time is working a revenge for him—the only kind which a man of his Quaker upbringing could accept. Today he enjoys the confidence and esteem of all men of good faith, regardless of creed or party.

It can already be assumed that the name of Herbert Hoover will be recorded with special luster, redeemed from the unjust and undeserved blame that party, parochial politics attached to his courageous, dignified and fundamentally sound efforts to direct the country during his presidential regime. Millions are already sorry for being taken in by the politicians whose tirades made Mr. Hoover the whipping boy of the depression.

Time was when Herbert Hoover was thought cold, but in this also, time has shown us the error. What was so casually and unfairly believed to be chilliness of spirit now is seen to have been something of shyness and something of dignity, alike native to the man's character. Those who flippantly and callously misjudged him were blinded by the disasters of the period. They requited his fidelity by naming his scapegoat. Now they know they were wrong.

Twelve thousand people were gathered on the campus of Stanford University for the birthday party of their most cherished alumnus and neighbor. In his address Hoover said little about himself. Instead, under the title "Think of the Next Generation," he spoke of trends in government that raise "some grave questions as to our whole future as a nation," and called for a return to certain principles of government and morals, if we would preserve the rights and dignity of men to which this nation is dedicated." He said:

We must wish to maintain a dynamic progressive people. No nation can remain static and survive. But dynamic progress is not made with dynamite. And that dynamite today is the geometric increase of spending by our governments—federal, state

and local. . . . In the end these solutions of national problems by spending are always the same—power, more power, more centralization in the hands of the state.

And in his concluding words, too, there was no allusion to the nationwide tributes of which he was that day the object. He remained on the plane of impersonal, historic imperatives:

A splendid storehouse of integrity and freedom has been bequeathed to us by our forefathers. In this day of confusion, of peril to liberty, our high duty is to see that this storehouse is not robbed of its contents. We dare not see the birthright of posterity to independence, initiative and freedom of choice bartered for a mess of a collectivist system.

My word to you, my fellow-citizens on this seventy-fifth birthday is this: The Founding Fathers dedicated the structure of our government "to secure the blessings of liberty to our posterity." We of this generation inherited this precious blessing. Yet as spendthrifts we are on our way to rob posterity of its inheritance.

The American people have solved many great crises in national life. The qualities of self-restraint, of integrity, of conscience and courage still live in our people. It is not too late to summon these qualities.

In a number of European cities, also, that birthday was marked by public meetings. The one in Stuttgart has been described by Louis Lochner in his book *Herbert Hoover and Germany*. At a gathering for both children and adults in the ex-President's honor, the principal speaker was Frau Elly Heuss, wife of the man who subsequently became President of the Federal Republic of Germany. She addressed herself particularly to the children:

We want to celebrate a birthday—and our birthday child is already completely grown up: he will be seventy-five years old today! I've been wondering whether Mr. Hoover this morning thought of the fact that within our area in Germany many thousands of children even in their vacation camps and hostelries are starting out with their little pots and pans in happy anticipation of a decent, warm Hoover lunch. It must be a beautiful thought for him.

Her audience rose and shouted, "Hoover, *hoch, hoch, hoch!*"

Every succeeding birthday, too, was hailed across the nation, as if the accumulation of Hoover's years were a kind of national achievement. Perhaps there are in all of us vestigial traces of ancient patriarchal systems. Or possibly, in Freudian terms, the durable, self-confident Hoover, stern and virtuous, offered a consoling "father image" in times of cold war, nuclear jitters, and other anxieties. However that may be, the habitual sneering at Hoover gave way to no less habitual respect.

Increasingly, with distance and perspective, even the years of the Presidency were reconsidered and found deserving of belated praise. Said a New York editorial on his seventy-eighth birthday: "It is getting dangerous to go on fighting Mr. Hoover. Too many people are coming alive to the fact that he was a great President, just as he is a great man." A popular columnist, Robert Ruark, wrote that same week: "I just wish we could re-run Herbert Hoover for President, because I am certain sure we could win with him and fetch a little sanity back home."

Once, while he was in the Florida Keys for bonefishing, Hoover took ill and was rushed to a hospital. The news was reported in the press, of course. This was the first time in seventy-eight years of life that he remained in a hospital overnight. Clarence Buddington Kelland, the popular novelist, was a guest on the Chief's chartered houseboat. To a fellow Hooverite, Neil MacNeil, he wrote:

Immediately there commenced to arrive a veritable flood of sympathy and good wishes. Telegrams and letters from people of consequence—but the amazing and significant thing was the deluge of printed "get well" cards from all over the nation—cards of the sort one can buy at the corner drug store for a nickel. These from inarticulate people, butchers, bakers, candlestick makers who revered the Chief and knew no other way to express their affection and sympathy. These cards came not by dozens but by thousands, until there were bushel-baskets full of them.

On Hoover's eightieth birthday in 1954, Congress once more attested, in a joint resolution, its affection and gratitude, and the press again confirmed that the Congress was reflecting the sentiments of the citizenry. The ex-President was then in the midst of his second analysis of the Executive branch of the government. The picture of an octogenarian engaged in a great public undertaking—not only the oldest but the hardest-working among the several hundred executives and professional men whom he had mobilized for the job—touched the nation's heart. In the New York Times Magazine, R. L. Duffus wrote:

Today Mr. Hoover is not so much an ex-President living on past glory as an active and influential citizen, a sort of one-man "Task Force" working for what he conceives to be the welfare of his country. . . . If he is more widely popular now than he was when he was President, it is not because he has worked at it, but rather because a perception of his character and personality has percolated down to the man in the street.

Collier's featured a birthday editorial that began by identifying Hoover as "one of the most misunderstood and maligned men of our time," and ended on a note of content:

The perspective of years has finally revealed Herbert Hoover to all for what he is—a man to be cherished in a day when "glamor" sometimes serves as a substitute for integrity in public life, a man of wisdom, courage, forebearance and, above all, humaneness and dedication.

The writers of history textbooks have been, as a group, the tardiest in accepting the latter-day estimate of Hoover—perhaps, as one of them explained to me, because most new textbooks are rewrites of old ones. It is useful, therefore, to cite one such book which, quite coincidentally, was published in the year of the eightieth birthday. *Recent American History*, by Leland D. Baldwin, said in part:

Hoover has been maligned unjustly as callous, reactionary, inept and even stupid. His policies may or may not have been short-sighted and mistaken, but it is evident that he always kept before him a zeal for promoting human welfare and with this as his guide and principle never flagged or deviated. His shortcomings—if these be such—lay in too great a faith in human reasonableness and in too great a faith that the economic forces which had made us great must continue to operate.

He was an old-fashioned liberal who believed in local responsibility and preferred voluntary association to imposed controls. He believed in democracy and its precious diversities; but, he also knew that if two men ride the same horse, one must go on the rump. He was equally opposed to control by special privilege of any economic class and control by Big Government; though he increased the number of service bureaus during his presidency, he actually reduced the total payroll. When he praised rugged individualism he was praising self-reliance, not predatory self-interest.

Since the vocabulary of esteem is limited and repetitive, I resist the temptation of offering more quotations. Suffice that the comment in that year, in editorials and articles and personal messages was consistent with the "image" established five years before. That image bids fair to blot out and supersede the earlier unpleasant and defamatory stereotype. Future textbooks, it seems a safe guess, will give our school children a more fair-minded portrait of Hoover than those still conditioned by the caricatures of the 1930s.

On August 10, 1954, Hoover returned to West Branch, at the invitation of the Iowa state legislature and the governor. Sheaves of congratulatory telegrams and cables from all over the world were awaiting his arrival that morning. Already thousands were beginning to gather in the village. Hoover visited the graves of his parents, then the cottage in which he was born—by now it was a neat, whitewashed shrine maintained by the state of Iowa.

From a platform put up for the great occasion, the governor and other Iowa dignitaries voiced the boundless pride of their state in its native son. Telegrams were read from President Eisenhower and ex-President Truman. The large audience showed almost filial satisfaction that their whitehaired guest, at eighty, stood erect and stalwart, clear-eyed, his voice barely touched by the years, his ideas fondly familiar. Said Hoover simply:

I am glad to come to West Branch. My grandparents and my parents came here in a covered wagon. In this community they toiled and worshipped God. They lie buried on your hillside. The most formative years of my boyhood were spent here. My roots are in this soil.

He wanted to discuss, he said—"not in the tones of Jeremiah but in the spirit of Saint Paul"—the forces that make for progress and those "which may corrode away the safeguards of freedom in America." For the corrosions, he said, "the remedies . . . are not revolution" but "mostly jobs of marginal repairs around a sound philosophy and a stout heart," and he warned:

Even if security from the cradle to the grave could eliminate the risks of life, it would be a dead hand on the creative spirit of our people. Also, the judgment of the Lord to Adam about sweat had not been repealed. When we flirt with the Delilah of security for our productive group, we had better watch out, lest in our blindness we pull down the pillars of the temple of free men.

Some years earlier Hoover had published, in the magazine This Week, a little essay rejecting "the cult of the Common Man," which has been often quoted and reprinted. He returned to this theme in the West Branch address:

Among the delusions offered us by fuzzy-minded people is that imaginary creature, the Common Man. The whole idea is another cousin of the Soviet proletariat. The Uncommon Man is to be whittled down to size. It is the negation of individual dignity and a slogan of mediocrity and uniformity.

The Common Man dogma may be of use as a vote-getting apparatus. It supposedly proves the humility of the demagogues.

The greatest strides of human progress have come from Uncommon Men and Women. You have perhaps heard of George Washington, Abraham Lincoln, or Thomas Edison. They were humble in origin, but that was not their greatness.

The humor of it is that when we get sick, we want an uncommon doctor. When we go to war, we yearn for an uncommon general or admiral. When we choose the president of a university, we want an uncommon educator.

The imperative need of this nation at all times is the leadership of the Uncommon Men or Women. We need men and women who cannot be intimidated, who are not concerned with applause meters, nor those who sell tomorrow for cheers today.

And in conclusion:

Eighty years is a long time for a man to

live. As the shadows lengthen over my years, my confidence, my hopes and dreams for my countrymen are undimmed. This confidence is that with advancing knowledge, toil will grow less exacting; that fear, hatred, pain and tears may subside; that the regenerating sun of creative ability and religious devotion will refresh each morning the strength and progress of my country.

The pattern of nationwide acclaim, its tone becoming ever less political and more affectionate, held true when Hoover reached the age of eighty-five. The Saturday Evening Post editorially said:

It is too often forgotten that Herbert Hoover, who celebrated his eighty-fifth birthday August tenth amid glowing tributes from people of all shades of political opinion, was the victim of one of the most vicious, expensive and skillfully engineered smear campaigns in the country's history.

The caption on the editorial read: "Herbert Hoover's Service to the Nation Shames Those who 'Smeared' Him."

Normally, of course, affection even unto reverence for a former President, rich in years and removed by time from the wars of his prime, would hardly be remarkable. A nation craves heroes, in whom it can see, as in a mirror, reflections of its own most cherished attributes; it is a species of self-flattery. But in Hoover's case there was that long interval of eclipse, contempt, and even persecution. What the American people witnessed and savored, therefore, was a vindication, complete and ungrudging, and suffused, by a glow of relief that a wrong had been righted, a blot erased. His life seemed in some measure a comforting morality play, in which Good triumphs over Evil.

Thousands of those who thought they "hated" Hoover were now hard put to remember why. For their "hatred" had been directed against a symbol bearing his name, rather than the flesh-and-blood man. There remained plenty of criticism of his policies, philosophy, and personality, but there was no longer a receptive audience for malice against the thirty-first President.

FOREWORD

In the final pages of this book I record that Herbert Hoover, "though frail and under continuing medication, appears to be slowly regaining strength; his spirits are good, his mind unclouded." This still held true when the biography was published on August 10, 1964, his ninetieth birthday.

But ten weeks later, on the morning of October 20, the thirty-first President of the United States died. The news touched off great tides of eulogy, attesting the affection and admiration in which he was held by his countrymen and in many foreign lands. President Lyndon Johnson proclaimed a thirty-day period of mourning. Tens of thousands filed reverently past the former President's casket in St. Bartholomew's Episcopal Church in New York and then in the Capitol Rotunda in Washington. The passions of the election campaign then under way were briefly stilled as all four candidates for President and Vice President came to honor Hoover at the simple funeral service at St. Bartholomew's.

On Sunday, October 25, Hoover was laid to rest in West Branch, Iowa, at a site he had himself selected: a gentle knoll overlooking the tiny cottage in which he was born. In accordance with his wishes, the body of his adored wife, Lou Henry Hoover, had been transferred from Palo Alto, California, where she was interred twenty years ago, for reburial at his side.

Within hours after Hoover's death, I was asked to write a short obituary for a magazine about to go to press. Because my grief was fresh and sharp, I had the courage of my sentiments and wrote in part:

How does one sum a life so rich and eventful, so dramatic in its contrasts of light and shadow, in a few paragraphs? The words that come to mind, as one gropes for clues to his essence, are simple, homely words, the kind so rarely applied or applicable to outstanding public figures in our time that they have an almost archaic flavor. Herbert Hoover was gentle and kind, honest and modest and shy. He was capable of great angers against injustice and corruption and brutality, but not of malice against people. There was so little hate in his make-up that the monumental slanders to which he was subjected left him more puzzled and incredulous than bitter. . . .

There is another strange thing as one seeks to appraise Hoover. Somehow his colossal accomplishments, the substance of his many careers, recede into the background. These are for the history books, the biographies. What obtrudes, overshadowing his deeds, is the man himself. . . .

Herbert Hoover had a great mind and immense erudition in many fields. He had unique powers of organization and command in vast enterprises, from global engineering to global relief. Beyond most men he knew the many faces of evil, in war, famine, catastrophes of every dimension. Yet there was about him a great simplicity, an almost childlike innocence. One token of it, I think, was in the fact that among those who knew him and loved him best, he inspired protective sentiments, an anxiety to shield him against the harshness of life. . . .

The most characteristic fact about Herbert Hoover was his unlimited love for children. His inhibitions seemed to drop away when he talked or wrote to youngsters. Their sorrows moved him to unabashed tears. He brought tremendous gifts to hundreds of millions of children on all continents, in bread and milk and new hope. But the greatest gift of all is the example of his own life and character. Youth craves and needs heroes. We who are no longer young can honor his memory best by helping a new generation to understand the shining integrity, the moral greatness, of Herbert Hoover.

Nearly seventeen years have passed since I wrote my original biography of our thirty-first President, published by Doubleday under the title of Our Unknown Ex-President: A Portrait of Herbert Hoover. Nearly all of it—recast, dispersed, and for the most part rewritten—has been absorbed in the present book. The extensive new materials added and the record of the intervening years explain and justify its issuance as a new biography.

Once, after the publication of the original book, Hoover hinted that he didn't like the description of himself as "unknown." I defended the word. He was unknown, I said, or at least insufficiently known, in the sense that the "real" Hoover had been distorted in the public mind by slanderous myths. He shrugged and the matter was not again mentioned. But in retrospect I came to agree with him that the title, though it may have been appropriate a few years earlier, had become obsolete. Even in 1948, when the book was published, the myths were beginning to wear thin and the popular conception of the man was closer to reality. Certainly by the time he was reaching ninety there was little excuse for considering him "unknown" in any sense.

Hoover was more than seventy-four years old when the original biography was brought out. It was a reasonable assumption, therefore, that his career was substantially completed. The assumption proved wrong. In fact the years that followed added enormously to his life's story, giving it, indeed, new dimensions of significance. I refer not alone to the important public services he performed—such as the monumental study of government operations by two successive Hoover Commissions—and the books he wrote. I refer to the profound and wholesome change in American attitudes toward the ex-President. The national conscience, deeply disturbed by Hoover's long ordeal by vilification, was eased by his vindication, and there was a universal feeling of gratitude, widely articulated in the press, that he was still alive to witness the transformation.

Hoover's life exemplified, on the highest plane, the conventional American "success story." But it contained, too, elements of immense pathos. He was the self-made man who from the humblest beginnings rose to transcendant heights—to the summit of his vocation, which was the mining of metals; to the pinnacle of his avocation, which was benevolence; to the highest office in the Republic. Then, with startling suddenness, his destiny took tragic turns.

Rightly credited with genius in the administration of economic resources, he was fated to preside over a catastrophe of economic disintegration. A Quaker whose name had become synonymous with compassion, he found himself accused of callous indifference to the sufferings of his own countrymen. From the luminous mountain peaks he was driven into the valley of shadows, there to wander for more than fifteen years in unmerited ignominy, a man mocked and defamed, pilloried and stoned, for wholly imaginary sins.

Happily the legend was dissipated in his own lifetime. The landscape of his ninety years thus has the sweep of a great human drama, the counterpoint of brilliant light and melancholy shadows. His life seems in some measure a comforting morality play, in which Good triumphs over Evil.

A clear head under the control of a compassionate heart kept Hoover from succumbing to the catch-phrases and shibboleths of the hour. While devoting his life to helping the weak and the destitute, he never tried to flatter the masses by glorifying weakness and destitution. He sought to stir them, rather, to new strength and self-reliance. Without planning it, by merely acting as his mind and conscience dictated, in disregard of prevailing social pretensions and intellectual fashions, he became the spokesman and a symbol of vital and enduring truths.

NEW YORK, *November 10, 1964.*

EUGENE LYONS.●

RESOLUTION ON IDA NUDEL

● Mr. DOLE. Mr. President, on November 13, I joined Senator PERCY and 27 other colleagues in cosponsoring a resolution (S. Con. Res. 50) on behalf of Ida Nudel.

Arrested in June 1978 and charged with "malicious hooliganism," Ida Nudel is guilty of the crime of less-communism: Wanting to emigrate to Israel. She had been applying for permission to leave the Soviet Union since 1971. Her request met with repeated refusals. One can well imagine the desperation that led her to finally express her plea through a banner hung outside her apartment, stating in pathetic simplicity "Give me my visa."

There is no denying that such public appeals are viewed with embarrassment by the Soviets as admissions that all is not well within the Soviet garden of Eden. A wish to leave one's country is never paired with an ideal situation in the homeland. Expatriates do not lightheartedly choose their fate. If the ideological climate of the Soviet Union is grim, so is its economic outlook.

One of the provisions of the Helsinki Final Act sought to promote freedom of movement across borders. This provision has yet to be implemented by the Soviet Union. It is true indeed that the Soviets have increased their emigration

figures this past year. It is also true that this trend is expected to continue through 1980. But we should not let ourselves be misled by these "gains." The case of Ida Nudel, serving a 4-year sentence of internal exile in Siberia, the only woman in a barracks full of hardened male criminals, is one of the many reminders that "there is nothing new under the Sun" in the steppes of the U.S.S.R.

Increases in emigration do not reflect a change in policy. They merely attest the importance in which the Soviets hold the obtainment of hope-for trade agreements and the ratification of SALT II, for which they are simply willing to throw in a few more chips on the bargaining table.

We should not lose sight of the unique opportunity that we presently hold in insisting that the Soviet Union abide past international agreements. By raising the case of Ida Nudel once again, we are demonstrating the seriousness with which we intend to pursue our efforts toward the fulfillment of human rights.●

TRIBUTE TO JUDGE HAROLD LEVENTHAL

● Mr. KENNEDY. Mr. President, it has been said that grief is for the living. It measures not the end of life, but the loss in lives which go on.

By that standard, there is no measure of the grief we feel at the passing of Circuit Judge Harold Leventhal. He was, without question, a giant of judicial courage and craftsmanship. He towered in a court of great distinction, by virtue of his burning intellect, his energy and exhaustive analysis, and his unerring sense of justice and humanity.

Those who argued before him found his probing as fair and relevant as it was unrelenting, and they remember those electric interchanges as among their most precious moments. Those who tried to predict him found that he defied prediction, and there was no surprise that he cast so many deciding votes. Those who received his judgments found in them a measure of thoughtfulness and understanding which serve as a model of judicial temperament. And those who watched the evolution of the law found him at its cutting edge, probing its reaches and its limits with a quiet, professional responsibility which served to channel his brilliance.

Many will review Judge Leventhal's accomplishments in disparate areas—from criminal law to immigration, from civil liberties to President prerogatives. The limits which he set will pass with time, and the great advances will seem smaller in the larger marches. But the energy, the vigor, the towering reponsibility will live. They exist today in a thousand separate spirits touched by the vision and the vitality of this man. They are his gift to life and law—a precious reminder of our capabilities.●

LIFESAVING TECHNIQUES FOR CHOKING VICTIMS

● Mr. PERCY. Mr. President, earlier this year, I requested the General Services Administration (GSA) and the Department of Defense (DOD) to require that lifesaving techniques for choking victims be posted in all food service facilities under their jurisdictions and that all food service personnel be instructed in and be familiar with the proper execution of such techniques. I recently made a similar request to the Architect of the Capitol regarding congressional facilities. The benefit of saving thousands of lives far outweighs the relatively minimal cost involved for the printing of these posters and their distribution to Federal food service facilities.

I have received favorable responses to each of these requests, and request that the letters which I received on October 17, 1979, from GSA Administrator Freeman, on October 18, 1979, from Assistant Secretary of Defense Moxley, and on November 20, 1979, from the Architect of the Capitol be printed in the RECORD. I hope other operators of food service facilities will follow their excellent example.

The letters follow:

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., October 17, 1979.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: This is in response to a recent telephone conversation with Ms. Zanetti of your office regarding the display of posters on first aid for choking victims in our food service facilities.

Since our letter to you of July 5, 1979, indicating our action on this matter, our regional offices have advised us that either the "Heimlich Maneuver" or the "First Aid for Choking" posters are being displayed in our food facilities. They are visible to food service personnel, enabling them to be familiar with the proper techniques that could result in saving lives of choking victims. Many food service employees have already received, or will be receiving, training in these techniques from food service managers, local Red Cross chapters, fire departments, or Public Health Service health units.

Thank you for your interest in this vital matter and we will be pleased to provide any additional information you may desire.

Sincerely,

R. G. FREEMAN III,
Administrator.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., October 18, 1979.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: This is in final reply to your letter of May 30, 1979 concerning dissemination of information about the Heimlich maneuver.

Our inquiry to the Military Departments reveals that treatment of an obstructed airway is included now in the training of all medical department personnel in cardiopulmonary resuscitation (CPR). Beyond that, with the exception of the Navy, there is little training or education of others in this technique. We agree that it is a valuable treatment and that further dissemination is appropriate.

Accordingly, we are directing (see enclosure) the Military Departments to extend hands-on training to all permanent staff of facilities which serve food and to encourage inclusion of information about the Heimlich maneuver in the first aid treatment of all hands, to include the appropriate use of posters and other audio-visual aids. I believe these measures will result in an appropriate increase in knowledge of this technique among our personnel.

Thank you for your interest in this important matter.

Sincerely,

JOHN H. MOXLEY III, M.D.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., October 18, 1979.

Memorannum for the Assistant Secretary of the Army, M&RA, the Assistant Secretary of the Navy, MRA&L, the Assistant Secretary of the Air Force, MRA&I.

Subject Enhanced Teaching and Training in the Heimlich Maneuver to Treat Victims of Choking on Food.

Reference PDASD(HA) Memo of July 17, 1979, same subject.

Replies to our initial inquiry, referenced above, indicated that the Heimlich maneuver (or Heimlich hug) is universally taught to medical department personnel as a part of hands-on training in cardio-pulmonary resuscitation (CPR). I am pleased that this is so because of the technique's usefulness in treating the unfortunate victims of food aspiration. However, I believe that two additional steps are appropriate to further dissemination of knowledge of this treatment method. Since the vast majority of upper airway obstruction from aspiration arises from food, often when alcohol has been consumed as well, it is particularly necessary that all permanent personnel working in mess halls, dining facilities and service clubs be carefully instructed in this technique. Also, since food may be aspirated at a time when neither medical nor food service personnel may be available, it is important that there be general knowledge of the technique. Therefore, some basic information about the technique should be included in the curriculum of all first aid training. The purpose of this memorandum is to direct that the above steps be taken to the extent that they have not already been implemented as a result of Service initiatives. This teaching should be reinforced by the appropriate display of posters to reinforce the knowledge of this technique.

I know that I can count on your support in emphasizing the importance of this simple but effective method of saving lives in our personnel.

JOHN H. MOXLEY III, MD.

A PERSON CHOKING ON FOOD WILL DIE IN 4 MINUTES—YOU CAN SAVE A LIFE USING THE HEIMLICH MANEUVER

Food-choking is caused by a piece of food lodging in the throat creating a blockage of the airway, making it impossible for the victim to breathe or speak. The victim will die of strangulation in four minutes if you do not act to save him.

Using the Heimlich Maneuver (described in the accompanying diagrams), you exert pressure that forces the diaphragm upward, compresses the air in the lungs, and expells the object blocking the breathing passage.

The victim should see a physician immediately after the rescue. Performing the Maneuver could result in injury to the victim. However, he will survive only if his airway is quickly cleared.

If no help is at hand, victims should attempt to perform the Heimlich Maneuver on themselves by pressing their own fist upward into the abdomen as described.

What to look for, the victim of food-choking:

1. Cannot speak or breathe.
2. Turns blue.

Heimlich Sign: Hand to neck signals: "I am choking!"

3. Collapses.

HEIMLICH MANEUVER

Rescuer standing, victim standing or sitting.

Stand behind the victim and wrap your arms around his waist.

Place your fist thumb side against the victim's abdomen, slightly above the navel and below the rib cage.

Grasp your fist with your other hand and press into the victim's abdomen with a quick upward thrust.

Repeat several times if necessary.

When the victim is sitting, the rescuer stands behind the victim's chair and performs the maneuver in the same manner.

OR

Rescuer kneeling, victim lying face up.

Victim is lying on his back.

Facing victim, kneel astride his hips.

With one of your hands on top of the other, place the heel of your bottom hand on the abdomen slightly above the navel and below the rib cage.

Press into the victim's abdomen with a quick upward thrust.

Repeat several times if necessary.

THE ARCHITECT OF THE CAPITOL,
Washington, D.C., November 20, 1979.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: In response to your letter of November 5, I am pleased to advise that arrangements have been completed for Senate Restaurant employees to receive training in the life saving techniques for choking victims.

The development of this program has been coordinated with the Office of the Attending Physician, and members of Dr. Cary's staff will conduct the training sessions. We have elected to provide advanced training to Restaurant personnel in order that immediate assistance may be rendered to choking victims, and the training will be provided on a continuous basis so that new employees are knowledgeable in the various techniques.

In addition, for the benefit of patrons who may be unfamiliar with these life saving techniques, we will post instructions therefor in various Restaurant facilities.

I am grateful to you for your interest in this program and I look forward to hearing from you when I can be of further assistance.

Cordially,

GEORGE M. WHITE, FAIA,
Architect of the Capitol. ●

VIEWS OF SENATOR KENNEDY ON QUESTIONS OF IMPORTANCE TO BUSINESS

● Mr. RIEGLE. Mr. President, our Nation is in the midst of an ongoing debate concerning the most appropriate solutions to our economic problems, including the serious energy shortages which confound them. That debate reaches well beyond the walls of this Chamber—to the smallest and furthest of our communities, to the boardrooms of corporate offices, to the halls of academia, and to the leadership of the Democratic Party. Our colleague, Senator KENNEDY, has been an active participant in that debate throughout his distinguished career in the Senate, and as we all know, his participation has intensified in recent months. One vital aspect of this debate is the role and responsibility of our business community in the economic life and health of this Nation. Over the past decade, Senator KENNEDY has spoken several times about that important role of business, and about the issues of most concern to business. Especially in the current political context, those several expressions of views are of interest to all of us in the Senate, and to all Americans. For this reason, I offer for inclusion in the RECORD a number of materials expressing Senator KENNEDY's views on questions of importance to business.

I submit the following materials for printing in the RECORD, with the index listed below:

SENATOR KENNEDY SPEAKS ON ISSUES OF CONCERN TO BUSINESS

Address in Manchester, New Hampshire, November 21, 1979.

Address to Investment Association of New York, September 27, 1979.

Address to National Federation of Independent Business, June 11, 1979.

Address to Joint Leadership Conference of the American Enterprise Institute for Public Policy Research and the National Journal, May 21, 1979.

Interview in Barron's National Business and Financial Weekly, April 30, 1979.

Address to Greater Boston Chamber of Commerce, February 9, 1976.

Address Before United Nations' Conference on New Structures for Economic Interdependence, May 15, 1975.

Report on Regulation and Competition in the Wall Street Journal, April 24, 1975.

Address to Fall River, Massachusetts Chamber of Commerce, January 8, 1973.

Address to Economic Club of Detroit, April 8, 1969.

ADDRESS OF SENATOR EDWARD M. KENNEDY AT SHERATON WAYFARER HOTEL, MANCHESTER, N. HAMP., NOVEMBER 21, 1979

I have come to this state to discuss energy policy because the families of New Hampshire and New England now face the crisis in its most immediate form—home heating oil prices that will cost you more this winter and leave you colder.

The motto of New Hampshire speaks clearly to our challenge. We must live free of the oil cartel. We must live free of excessive dependence on foreign energy supplies. We cannot allow America's economy at home and its leadership in the world to falter or to die.

Few issues in the 1980 election are more central to our future than energy. In few specific areas do I have sharper differences with President Carter. On few issues has the ineffective presidency of these years been starker or more confused.

This Administration did not create the energy problem. For decades, the American economy was built on a foundation of cheap energy. Between 1940 and 1973, the cost of energy actually declined in real terms. Buildings were designed, cities were raised up, suburbs were divided, and freeways were extended with little or no awareness that energy would become scarce and expensive.

Our heavy industries could dominate world markets when oil was at $2 a barrel; now they are struggling to compete.

All of this was painfully visible by 1976. And the Democratic nominee of that year pledged a set of specific programs. But the solutions are nowhere in sight. Instead, his presidency has become a source of new and greater difficulties over energy. We heard a series of promises in 1976. But none of us could depend on them.

In 1976, Mr. Carter promised "strong measures to conserve energy." Yet the latest version of his shifting energy policy, the most expensive energy proposal in the history of the nation, hardly mentioned conservation.

Four years ago, Mr. Carter attacked President Ford for "a policy that is simple to describe—a large and sudden increase in the price of oil." Since then, Mr. Carter has rushed to embrace the Ford policy of decontrol. His campaign rhetoric in 1975 has become the epitaph for his own program in 1979.

On energy, we have endured three years of an inconsistent and confusing Presidency. The only principle they have followed is to change the policy constantly.

The trial of broken promises and bewildered purpose has left the nation uncertain of our goals, and angry about a policy that offers no respite to the relentless march of higher prices.

Two years ago, when the Senate was considering the decontrol of natural gas, the President only had to persuade two Senators to support his position and decontrol would have been defeated. He could not change a single vote. Then, this year, he unilaterally decontrolled the price of crude oil. He handed the oil companies an enormous giveaway over the coming decade, extracted from consumers in the higher prices due to decontrol.

The Administration did not say, first a windfall profits tax, then decontrol. But the President did insist that fuel assistance for low and middle income families be held hostage until the Congress approved the windfall tax.

The President will not even suggest to the oil companies that they hold their prices down. This month, he refused to meet oil executives face to face himself. He delegated the task to subordinates, who barely whispered the word "price restraint."

By fits and starts, by default and defeat, the Administration has consistently fumbled opportunities to achieve a responsible energy policy. The only policy they have is a policy of prolonged energy inflation. The moral equivalent of war has become the practical equivalent of surrender to OPEC, to the oil companies, and to a windfall profits tax that is no more than a transparent fig leaf over the industry's enormous profits.

I do not believe that controls on the price of oil and gas should be a permanent condition of our economy. But I do say that decontrol at the present time, when we are already facing double digit inflation, is an economic disaster for the people of New Hampshire, and Massachusetts, and every other state.

Indeed, the most urgent need is to re-impose controls on home heating oil—and to do so now, before the winter brings harsh weather and even harsher heating bills to the homeowners of Manchester.

Supporters of decontrol argue that higher prices are the most effective means to encourage conservation of energy and exploration for new sources of production.

But the available estimates do not justify these assertions. The benefits of decontrol are marginal in terms either of the increased conservation forced on people by higher prices or the increased production stimulated by higher profits. In my view, the back-breaking economic burden of decontrol is out of all proportion to the modest benefits likely to be achieved.

The fantastic current multiplication of oil profits should provide more than enough incentive to find new oil. If the industry will not respond when average profits climb 105 percent, if Texaco will not re-invest when profits increase 211 percent, then the companies have taken leave of their corporate senses. What profit increases will they next demand—300 percent? If the four hundred billion dollar gift of decontrol is too little, then how much more must be given—a trillion dollars in the next decade?

I also reject the view that decontrol is a fair policy to enforce energy conservation. Factory workers in this area have to drive to work. The elderly have already turned their thermostats down to 65 degrees. How much lower can they go—to 50 degrees? Families in Nashua and Manchester have already closed off rooms in their homes. How much more of their homes can they abandon for the winter? Are they all supposed to huddle together in a single room?

Decontrol is a form of rationing—rationing

by price. It will cost the average family a thousand dollars a year. It is a regressive plan that imposes the heaviest burdens on those who can least afford them. Perhaps higher prices will compel families in New Hampshire to consume less oil to heat their homes; perhaps decontrol will drive them into living in a permanent chill—and pay more for the privilege of getting sick. Perhaps families will eat less in order to pay the bill for fuel. But surely this was not what the American people thought Jimmy Carter offered in 1976 when he talked of bold energy decisions to insure that our future is bright.

America's energy future does not have to be a dark one, based on endless sacrifice and spartan hardship. We do not have to lose the war against inflation to win our way out of the energy crisis. We need not be permanent beggars at the OPEC banquet tables—or in the boardrooms of the great oil corporations.

There are answers to our energy problems. What we need is a leadership of constant purpose and competence.

I see five imperative steps to a secure energy future.

First, we must establish specific incentives for conservation, rather than relying on the cruel and random weapon of decontrol and soaring prices.

We can no longer accept the wasteful and inefficient use of energy. We must set—and meet—a major goal of minimum energy waste and maximum energy efficiency in our homes and factories.

In areas such as automobile manufacturing, regulation has already mandated efficiency and substantial savings have been made. But in other areas, we must provide new incentives for energy saving.

With your own Senator and my friend, John Durkin, and with Senator Henry Jackson of the State of Washington and with a bipartisan group of Democratic and Republican Senators, I have proposed a comprehensive plan for each sector of the economy.

For commercial buildings, low interest loans would be offered to reduce the loss of heat in the winter and the use of air conditioning in the summer. For industries, the plan calls for accelerated research and development and incentives to modernize their energy systems. For homeowners, it offers incentives for insulation and other forms of weatherization, including direct subsidies for low and middle income families.

This proposal makes far better energy sense than decontrol. The difference is easy for any homeowner to understand. The Administration wants to inflate the price of heating oil and let the people take the consequences. My program emphasizes insulation, so Americans can heat sufficiently and conserve substantially at the same time.

The Carter Administration pays lip service to the principle of energy efficiency. But the latest plan they favor would achieve only one tenth of the possible energy savings. Under the plan I favor, we can do far more. Through conservation and efficiency alone, we can realize the full savings promised by President Carter's entire program of last July.

The second imperative of energy policy is to protect our economy from any future oil embargo. To do so, we must establish a strategic reserve of petroleum supplies, capable of providing additional oil during any such emergency.

A petroleum reserve is as indispensable an element of national defense as an arsenal of weapons. An oil boycott can threaten us as surely as an armed attack. If the world believes that we are weak, then we will be weak—our vulnerability will be exploited.

I was one of the original Senate advocates of legislation to create a strategic reserve. Six years later, we still lack the capacity to ride out an embargo on foreign oil.

I also proposed that we establish regional reserves, so that each geographical area of the country will have prompt access to oil that is already refined. In case of another oil embargo, New England should have a supply of heating oil close at hand, not half a continent away in Louisiana.

The strategic reserve is a victim of official misdirection and mismanagement. The Administration has moved with painful slowness to fill the reserve. In August, the White House announced that it was postponing the program once again. They have missed every goal they set. They have even opposed the concept of regional reserves.

Inaction has been compounded by incompetence. The Energy Department has poured 92 million barrels of oil into salt domes for storage. But they forgot to put the equipment in place to pump the oil back out. We had a reserve in name that could not be tapped in fact during the first Iranian shut-down. Ironically, some of the oil is now seeping out into the ground, and can never be recovered.

This nation must stock the reserve without delay. We must also plan in advance how to reduce oil consumption in a shortage. We had no plan at all at the time of the Iranian cut-off last January. And so the gas lines lengthened while the Administration scrambled for some solution.

Each time we confront a cut-off, the President should not have to summon a conference of Governors at the White House—and ask them what to do. We should have options short of compulsory rationing. The President should take the lead in developing federal, state, and local contingency plans to distribute oil fairly during any national emergency.

Finally, we should seek a reserve of production as well as supply. It is possible to raise domestic oil production significantly on a temporary basis. Yet in the last crisis domestic production actually dropped. The Administration should negotiate arrangements with the oil companies to pump more oil during an embargo. Our federal oil leasing policy should insure that the government can order increases in production when imports are cut off.

The third imperative of energy policy is to promote greater diversity in international sources of oil and gas. We cannot afford to accept the status quo, with our future and our fate so tied to a small group of shiekdoms in the Persian Gulf.

We have not even begun to tap the potential for oil in the far places of the world. We have drilled more holes in Arkansas than in all of Latin America, more holes in North America than in the rest of the world combined. There is more recoverable heavy oil in Venezuela at current prices than all the oil that has ever been consumed since petroleum was first taken from the ground in 1859 in Titusville, Pennsylvania.

We must begin by looking to our own hemisphere. The Administration bungled the natural gas negotiations with Mexico. It has delayed a year and a half in dealing with simple questions about oil production in South America. Such hesitation wastes oil as surely as any waste from homes that are overheated or from automobiles that guzzle gas.

A year ago, I called for a new alliance for energy in North America and the Western Hemisphere. It is an idea whose time has now arrived. Governor Brown has taken up the idea. And just last week, Governor Reagan also seconded the proposal. It must not become an excuse for sudden exploitation of our neighbors, but a recognition of our common interests.

In addition, the United States should support and participate in the efforts of the World Bank to aid oil exploration in the developing countries. The Bank has identified fifty-four nations in need of assistance to carry out such exploration. The best answer to the challenge of a cartel is to challenge it with competition from other sources. Every barrel of new oil we find around the world can become a barrel of additional pressure on the OPEC nations.

Our fourth imperative is to pursue a comprehensive approach to the development of alternative sources of energy.

We need a strong coal conversion program, including a rapid shift of oil-burning facilities to coal.

We need to realize the full potential of hydroelectric, power, especially in New England and the West.

We need a responsible and balanced program for the development of synthetic fuels. What we do not need is the wasteful, big spending program embraced by the Carter Administration. Last summer at the height of the gasoline lines, the President abruptly subscribed to an incredible $88 billion proposal that puts the cart before the horse. It calls for the massive development of synthetic fuels before the technology is even tested.

We also need to do much more on solar energy. It has been written that humanity is the only species on earth "that has made friends with fire."

The human race must now forge a similar friendship with the sun. We must harness the sun and winds and tides. We must tap the geothermal potential of the heat within the earth. For the second time in history, we must discover fire.

In 1976, Mr. Carter promised to "increase dramatically the amount of research and development funds that go into solar energy." Yet he has given us the first Administration ever to reduce funds for solar research and development. Since the Department of Energy was created in 1977, he has not even bothered to appoint the key official responsible for solar energy.

As one of the original sponsors of the Solar Energy Research Institute, I have fought to shift federal priorities to solar enterprise. The next President should lead that fight. This nation need never run short, if it has the wisdom to rely primarily on renewable sources of energy like the sun.

In the face of government apathy, local and private endeavors have brought solar power to the point of practicality. Now government itself must help move the nation toward a solar economy. We should build on community-based systems, not replace them as some energy bureaucrats would prefer.

There is one area of energy where we need more prudence. I speak of nuclear power. In 1976, Mr. Carter told the country that a nuclear accident could be more devastating than an Arab oil embargo. At that time, he said nuclear power should be a last resort. Since then, it has become a priority of his Presidency. He wants to speed up the construction of nuclear plants. He wants to build them quickly. I take a different view. I have called for a two-year moratorium on construction permits for new plants. Unless and until we can build them safely, they should not be built at all.

I am committed to the principle that we do not have to destroy our environment in order to save ourselves from the crisis over energy. We must not open gaping holes in our health and environmental laws in a frantic search for quick energy solutions.

The fifth imperative of energy policy is to improve the competitive structure of our energy industry. We must establish a free enterprise system that is free in reality as well as name. The next Administration must collect the necessary data about anti-competitive practices in the oil industry, which this Administration has neglected to do. And it must share that data with the antitrust agencies, which the Energy Department now refuses to do. We must insist that a foreign cartel shall not be beaten, only

to be replaced by domestic concentrations of private power.

Moreover, the oil industry should not be permitted to mis-invest the windfall profits of decontrol in corporate acquisitions that undermine our energy effort.

I am now working in the Senate on legislation to prohibit the oil conglomerates from buying up any company with assets over $50 million. To justify an acquisition, a company will have to demonstrate that the purchase clearly enhances competition or promotes energy production. Mobil Oil should not be spending your hard-earned energy dollars to purchase Montgomery Ward. The industry claims it needs the windfall profits to seek more oil. But it is hardly likely that Mobil will drill for oil in the aisles of a department store.

The energy crisis of the past six years has eroded the confidence of Americans in government. Vietnam showed how wrong government's policy could be. Watergate showed how corrupt government could become. Now the continuing crisis over energy shows how incompetent government can be.

The people have lost faith in government because government has let them down. But they have not lost confidence in themselves. If Americans believe that energy policy has a clear and practical goal, they will cooperate and conserve. They will work, and work hard, for a new prosperity built on the realities of the future.

The decades of easy energy will never be retrieved. But a coherent policy can resolve the energy dilemma. It can also begin to restore the credibility of government and release the native abilities of the people.

The poet Robert Frost, who lived in this state and loved this rocky land, once wrote:

"Something we were withholding made us weak,

"Until we found out that it was ourselves."

We do not lack the resources to be economically strong, to light our cities, to warm our homes, or to power our industry. Together, we can tap not only the energy of earth and sun, but also the energy within ourselves. And in so doing, we shall guarantee that, in our generation, the promise of America will again be kept.

ADDRESS OF SENATOR EDWARD M. KENNEDY TO THE INVESTMENT ASSOCIATION OF NEW YORK, NEW YORK CITY, SEPTEMBER 27, 1979

It is an honor to address the Investment Association of New York this evening and to share with this influential group of business and financial leaders my views on the direction of the nation and the major issues confronting the American people.

Let me begin by emphasizing that I come before you as a lifelong member of the Democratic Party, a Senator committed to a broad range of initiatives in foreign and domestic policy, and above all as an American who deeply believes in the historic mission of this country as a beacon of hope and justice, of freedom and opportunity, that has lighted the world for the past two centuries and that continues to light the world today. That beacon is as ancient as the landing of the Mayflower at Plymouth Rock, and as recent as the defection of the Russian ballet dancers in New York and Los Angeles.

I refuse to believe that America is past its prime, or that this vital nation has entered an age of economic senility. I refuse to believe that we can no longer hold our own in the face of serious domestic challenges here at home and the growing pressures and competition of friendly and not-so-friendly nations overseas.

As citizens, the people of this country are not asking much from government. They are asking for the simple things that make a difference in their lives. They want jobs where they can work. They want prices at the supermarket their budgets can afford. They want reasonable interest payments on their homes. They want schools that can bring their children a decent education. They want safe streets where they can walk at night. They want America to stand tall among other nations, to be strong and effective and admired throughout the world.

But it has not worked out that way. On issue after issue of both foreign and domestic policy on questions that cut broadly across regional, partisan and philosophical lines, the aspirations of the people have failed to be fulfilled. None of us, whether in public or private life, can afford to be complacent about the erosion of American power and influence in the world.

The root of our present troubles has been the decline of the American economy because of our serious and persistent inability to deal with rising prices, chronic unemployment, declining productivity, excessive dependence on foreign oil, and a variety of other critical economic issues.

You know the facts as well as I do. Inflation rates above 10 percent for the eighth consecutive month; interest rates at the highest levels since the Civil War; unemployment at 6 percent and rising; zero or even negative growth in productivity; the price-wage guidelines in disarray; huge imbalances in foreign trade; and half the stocks on the New York Stock Exchange selling at below book value.

When the economy is wrong, nothing else is right. I yield to no one in my strong support for the basic social programs enacted by Congresses and Administrations over the past two decades. But I also hold equally firmly to the belief that a strong economy is the greatest social program America ever had, the source of all our strengths and greatness as a nation.

And yet, the decade of the 1970's may well be recorded as the worst economic decade in our history, except for the 1930's.

Two hundred years ago, Alexander Hamilton of New York wrote that America's unequalled spirit of free enterprise was the inexhaustible mine of our national wealth and would make America the admiration and envy of the world.

Seldom has the prediction of a public figure been more auspicious or more accurate. For two centuries, the free and open and competitive American economy has been the cornerstone for our unprecedented and incredibly diverse and dynamic economic growth.

The goal we share is not to turn back the clock in nostalgia for a time gone by. We do not ask to bring back the New Deal or restore the New Frontier to life. Instead, we seek to evoke a nobler spirit adequate to these different and unruly times, to generate once again the "can do" attitude that has always been the hallmark of America at its best.

But history does suggest that we are entitled to a little optimism in our present straits. After all, this is the same nation that pulled itself out of the Great Depression. It is the same nation that ended the stagnation of the 1950's and launched the longest period of uninterrupted growth and price stability in our history. It is the same nation that, but a decade ago, put the footprints of America in the valleys of the moon.

America will be judged in the 1980's, as it was judged in the 1930's and 1960's, by our ability to bring our sick economy back to health, by our willingness as one people with a common larger interest—business and labor, North and South, Wall Street and Main Street—to share fairly and equitably the burden of the present difficulty and of the future action we undertake.

Issues of this magnitude cannot be resolved in a single speech or by a single program. It will take months of debate and perhaps years of action by the best thinkers and managers in the nation to begin to make a difference. Tonight, however, I would like to address a few important areas in which we share a common interest, and which can contribute significantly to the restoration of a stable, productive and competitive economy.

One important area is that of foreign trade. I have often said, as part of the debate over the nation's health care system, that America is the only major industrial nation in the world without a comprehensive system of national health insurance. But we are also the only major industrial nation in the world without a comprehensive approach to the coordination of international trade and industry.

I come from a region of the country renowned for Yankee ingenuity, the birthplace of the industrial revolution on this continent. And I can tell you that several generations of Yankee traders and captains of New England clipper ships would be turning in their graves if they could see America today, taking a back seat in global trade and commerce to Germany and Japan.

Over the past two decades, the American share of world markets has dropped from 20 percent to 14 percent. That decline is unacceptable. An increase of just a single percentage point would be enough to eliminate the trade imbalance that has had such a crippling effect on our economy today.

Obviously, to end the current deficit in trade, we have to reduce our dependence on foreign oil. But we also have to devise more effective ways to sell American products overseas and compete in other lands. Other nations, not blessed with our magnificent natural resources, have learned to sell in order to survive, and America can learn as well.

A major challenge for this nation in the 1980's, therefore, is to create effective openings in foreign markets. The successful completion of the recent Mutilateral Trade Negotiations, for which Ambassador Robert Strauss and the Carter Administration deserve great credit, has laid the groundwork for seizing new opportunities for the expansion of foreign markets. That task is primarily for American business to undertake, but the federal government has a role to play as well. I look forward to the future decade as an era of new and productive partnership between government and business in this essential undertaking. I see America strong again around the world, renowned for the power of our system of free enterprise, bringing vast benefits to our own citizens and to the four billion other human beings who share this planet with us.

A second area of major challenge and opportunity is to modernize American industry. The basic need here is to take comprehensive action to reverse the alarming sag in productivity and to foster a new era of innovation and competition.

The key to prosperity is productivity. We do not have to abandon demand-side economics to recognize the importance of supply-side economics in our modern life. Without growth in productivity, the nation consigns itself to carving up a shrinking pie and fighting over ever smaller slices. With increasing productivity, the pie expands to create larger portions for all.

Over the past decade, however, U.S. productivity growth has fallen significantly below that of our major foreign competitors. And in the second quarter of this year, the rate plunged more sharply than at any time since the measurements began in 1947. Unless we halt that slide, it may well be impossible to achieve our other economic goals.

A related key to prosperity is innovation. From the electricity of Benjamin Franklin to the electronics of the space age, America has been renowned for its innovative genius. In recent years, the computer, the Xerox machine, and the semiconductor have revolutionized old industries and created entire new ones. The great communications ad-

vance—telephones and television, mass-produced automobiles and jet airplanes—did not merely make a country out of a continent. They changed the way we think of space and time.

As Chairman and a member of the Congressional Office of Technology Assessment, I have had the privilege of working closely with some of the nation's most distinguished and creative scientists and engineers. I have great confidence in their ability to launch a new innovative revolution in America, if only we can find the proper key to unlock the talent that is waiting to respond.

A top priority on our economic agenda, therefore, must be a major new national commitment to the twin goals of productivity and innovation. That means new incentives for savings and investment, for entrepreneurs and business firms. It also means new mechanisms to strengthen the other side of the equation—the market demand for innovation throughout the economy. I see seven major initiatives that can be used to reach these goals.

First, we must provide additional incentives to encourage capital formation and to enable industries to bring their plants and equipment into the modern world. While I do not endorse the details of the 10–5–3 Capital Cost Recovery Act because of its enormous budget cost, I do endorse its principle of helping American industry deal with the central issue of replacement cost in these inflationary times. It is time to revise the tax treatment of depreciation, to insure that it is better designed to meet the four important goals of capital formation, efficiency, equity and simplicity. As you will recall, the enactment of the investment tax credit in 1962 helped launch the unprecedented period of prosperity in that decade, and our goal should be to act with equal imagination for the decade of the 80's.

Second, we must devise targeted incentives to stimulate ventures that hold promise of substantial innovation. We can encourage business leaders to lift their sights beyond the bottom line on the next quarter's financial report, and take other steps to insure that thinking for the longer run becomes a more immediate concern of our major industries.

Third, we must revamp the antiquated patent system. The challenge here is ambitious—to create a vital new marketplace of ideas, where competitive forces will play a greater role in generating innovation in the economy. This means providing more effective patent protection, computerizing the patent process, reducing the burden of patent litigation, and shifting the 30,000 government-held patents to the private sector on terms that protect the investment and interest of the public. In ways like these, we can restore patents in the 1980's to the powerful and brilliant concept visualized by the Founding Fathers when they wrote the role of patents into the Constitution two hundred years ago.

Fourth, we must strengthen market demand for innovation through more imaginative use of government procurement and similar procedures. Here, for example, we can encourage communities to pool their demand for new technology in important public fields like mass transit, water purification, waste recycling and other areas where innovation lags today because demand is too isolated, weak, and fragmented.

Fifth, we must provide small business firms with new incentives to stimulate innovation. In recent decades, small business has accounted for nearly half of all major U.S. innovations. It has produced four times as many innovations per dollar of R & D as medium-sized firms, and 24 times as many as large firms. We can build on this record for the future, by assuring small business and new ventures a greater share of federal dollars for R & D, greater access to venture and investment capital, and greater assistance in the complex technical, managerial, and regulatory problems they face.

Sixth, we must determine whether America's competitive position would be enhanced by joint, cooperative research programs among companies, in order to increase productivity on an industry-wide basis. Our major foreign competitors now carry out such programs, but individual American firms are often unable to try them alone.

Seventh, we must revitalize the foundation for new technology, by strengthening the nation's basic and applied research, and by bolstering education and career development for scientists and engineers. The National Science Foundation, for example, is now carrying out a successful program created by Congress in 1977 to encourage joint industry-university cooperative research.

Together, initiatives like these can lead to a new birth of industry in America and a new flowering of technology that can launch us on a path of growth, vitality, and prosperity to the end of the century and beyond. We know that strong markets are essential to spur the modernization we need. Neither individuals nor firms will take new risks unless they have the promise of adequate rewards.

Government and industry have a role to play together here. If we succeed, then American productivity and innovation can once again be the envy of the world.

It is also time to end the guerrilla warfare between business and consumer groups. We cannot afford a bitter or divisive dialog in which business groups automatically equate the public interest with private loss, or in which consumer groups automatically label business as suspect.

The challenge is to reduce the gaps that divide our people, to make government more effective but limited to areas where it belongs, and to demonstrate that a vigorous, creative and profitable private sector is not only consistent with the public interest, but essential to our liberty.

Finally, let me mention briefly the area of deregulation, where we also share a common interest, and where government and business can work more closely and effectively together to reduce the burden of excessive regulation.

In this area, we are making a clean break with the New Deal and even the 1960's. We reject the idea that government knows best across the board, that public planning is inherently superior or more effective than private action. There is now a growing consensus, which I share, that government intervention in the economy should come only as a last resort, when market forces fail to meet important needs such as the protection of public health and safety.

Yesterday in the Senate, for example, we enacted the most significant prescription drug reform legislation since 1938. That bill, five years in the making, is a comprehensive overhaul of the Food and Drug Administration. It reduces delays and paperwork, streamlines the regulatory apparatus, adds significant new consumer protections, brings new drugs more quickly to the market, and provides major new incentives both for exports and for increased research and development. In areas like these, where regulation is needed, government can act to make its procedures more efficient, for the lasting benefit of consumers and industry alike.

In other areas, however, such as naturally competitive industries like trucks and airlines, the overwhelming evidence of recent years is that the free marketplace itself can do a better job than any government regulator.

Airline deregulation is a case study that proves the point. When our Senate investigation began in 1974, we found that the CAB itself was the cause of high air fares and inefficient service. New firms were denied entry to the market. The enormous competitive energy of the airlines was directed into the frivolous search for gourmet meals, theaters in the sky and other costly frills.

As a result of deregulation, the airlines started charging less and making more. Now, more people are flying, more communities are being served, and more workers are employed. Passengers saved over two and a half billion dollars in lower fares last year, yet the airlines increased their profits by 54 percent. And all because government got out and let the market work.

It was such a simple idea. For America, it was almost like reinventing the wheel. We rediscovered competition. The scheme of government regulation was a house of cards. It was no longer working, and at last we were wise enough to tear it down. There have been few more satisfying achievements in Congress in recent years than the success of airline deregulation. It has been good for the industry, good for the consumer, good for business, and good for the country too.

In ways like these, the decade to come will be a period in which both government and business reappraise their respective roles of action in the public and private interest. The primary challenge we face is to act as partners, not as adversaries, in restoring the magnificent potential of American enterprise.

Woodrow Wilson once wrote that the United States was built for men and women on the move. To a large extent, the future hope of this nation rests on business and labor together, the men and women who understand what it takes to keep America on the move. For two centuries, our system of competition and free enterprise has served this nation well. I intend to do my best to see that the system we hand on to our children will serve us well for many years to come.

ADDRESS OF SENATOR EDWARD M. KENNEDY TO THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS

It is an honor to be introduced by one of the most effective spokesmen for small business in this country—George Burger. For over 20 years, George has been an eloquent advocate on behalf of small and independent businesses.

I am also pleased to be here with Mike McKevitt—who, like George, is an active, articulate and aggressive advocate for small business.

One of our greatest strengths as a nation is our belief in a free, and open, and competitive American economy. And one of the principle keys to our progress as a nation—to the growth of our economy and the protection of our consumers—is the strength and survival of small and independent businesses. That is the foundation not only for our economic system, but for our political system as well.

Alexander Hamilton wrote in the Federalist Papers that the "unequalled spirit" of free enterprise is the "genius of the American merchants," and the "inexhaustible mine of our national wealth." He said that spirit would make America "the admiration and envy of the world." He was right.

The immigrants who built this country did not ask to be given a better life. All they asked was the chance to build one for themselves. The sum of their individual efforts is the source of our greatness as a people. America is the product of a million individual dreams and of the freedom which allowed those dreams to flourish.

Those dreams are no less important today than they were at the beginning of our nation. But somewhere along the line we began to lose the sense of individual craft and accomplishment. Somehow in the rush of events and technology, we came to believe that size and wealth were the measures of worth. We lost the value of diversity, the checks and balances of competition, and the belief in

individual accomplishment. And in their place we built new idols: Big business and big government. We too easily sacrificed the most precious elements of our heritage.

Our task is to restore those elements and create a new economic climate in which individual initiative will be rewarded, and independent enterprise will flourish.

As chairman of the Judiciary Committee, I have made a strong personal commitment to competition as the fundamental principle which should guide the economic policies of this country. In that commitment I have worked in partnership with NFIB which, more than any other business or professional organization, has committed its resources to preserving the free enterprise system that has made our country great.

We have some differences. But we also have many things in common. Let me mention six major pieces of legislation where we share a common interest.

Last Congress I introduced, with Senator Howard Cannon, the Airline Deregulation Act, which has increased competition dramatically in the airline industry.

This year, with NFIB support, I have introduced, after 19 days of hearings, a bill to eliminate price fixing and to reduce the heavy hand of government regulation in the trucking industry.

This year, again with NFIB support, I introduced the Competition Improvements Act, to increase competition in other regulated industries.

This year, again with NFIB support, I introduced the small and independent business protection act of 1979, to limit mergers by our largest corporations.

Last month I also introduced, "The Small Business Innovation Research Act", to strengthen significantly the role of small, innovative firms in federally funded research and development.

And just last week, I introduced "The Administrative Practice and Regulatory Control Act of 1979", a bill for which I ask your support, to require the President and Congress to review major government agencies to determine whether their goals can be achieved through other, non-regulatory means.

Of course, not every bill I have introduced has your support of encouragement. Two important examples where we have differed are national health insurance and my public participation bill. Even these bills, however, have much in them which should help small business, and I hope you will keep an open mind.

I believe every American has a right to decent health care at a reasonable cost. The "Health Care For All Americans Act", which I proposed last month, will guarantee that right. I want you to know that I have been sensitive to the needs of small business by including in the legislation provisions to assist certain small businesses in meeting the costs of a mandatory health care plan.

But we must also be sensitive to the enormous burden that spiralling health care costs are imposing on the nation,—on business, and labor alike. This nation will spend $180 billion on health care this year. It will spend $250 billion by 1981 if we do nothing at all. The only way to control those costs effectively is through a comprehensive national health insurance plan with a system of prospective budgeting.

Under my proposal, the Nation will spend *less* after four years of the plan, than if no legislation were enacted. The bulk of those savings will be in the private sector.

Left unchecked, health care costs will bankrupt this country. That is not in the interest of small business. It is not in your employees' interest. It is not in this country's interest.

In the area of public participation, my bill would give small businesses and other persons funds to appear before regulatory agencies in order to provide the agencies with points of view which would not otherwise be presented. In the past, NFIB has opposed this legislation because of concern that the funding would be used by consumer and environmental groups to challenge business.

I would urge you to re-think that opposition. In agencies where such funding has been tried, a significant portion of the funds have gone to small business, so that your interests may be better represented.

In a related area, I am presently working with Senator DeConcini and Senator Domenici on legislation, supported by NFIB, which will provide attorneys fees, in appropriate situations, to small businesses which successfully challenge illegal government actions.

In the next few days, you will be hearing from a number of distinguished speakers. Some of those speakers hope to have nationwide responsibilities.

I urge you to ask those speakers what they have done to commit themselves to small business and to increasing competition. I urge you to ask them to speak not in generalities, but in specifics. Ask them where they stand on the competition improvements act, on trucking deregulations, on the merger act.

And when you hear their promises of support, listen carefully for two things: a commitment for protection against unwarranted corporate power through vigorous enforcement of the antitrust laws, and a commitment for protection against unwarranted government power through regulatory reform. Both are essential to preserve the strength and vitality of small and independent businesses.

In the corporate world, our task is to stem the growth of giant conglomerate empires. They are literally swallowing the best and most promising of our independent companies. And those which they cannot absorb, they are driving from the market. In 1955, the top 500 industrials controlled 65% of all manufacturing and mining assets in this country. By 1965, the figure has climbed to 73%, and by 1977 it had reached an incredible 83%. Less than 3% of all industrial firms now control over 80% of all industrial assets. The top 100 firms now control the same share of manufacturing assets as did the top 200 thirty years ago. And the top 200 now control the same share as did the top 1000 in 1941.

Those figures are staggering to contemplate. And the merger wave is growing, not receding. It is producing corporate empires which can no longer be considered businesses in the ordinary sense.

We cannot afford to become a nation which even Fortune magazine has warned will end up completely dominated by conglomerates "happily trading with each other in a new kind of cartel system."

In our Judiciary Committee hearings, we have heard the opponents claim time and again that big business is the wave of the future, that small business is an anachronism, that independent firms can no longer compete effectively in the modern national and international economy.

I reject those assertions. The legislation I favor is not based on the view that bigness is bad. It is based on the view that smallness must survive. Massive concentrations of unaccountable corporate power are inconsistent with the democratic values in this country. Our economic institutions are out of scale and out of proportion.

Executives of great corporations scoff at such feelings. They see them as nothing more than naive nostalgia for a simpler lifestyle no longer possible in today's complex modern world.

But they are wrong. The need for scale and proportion in human institutions has always been recognized by thoughtful people. The ancient world had no difficulty understanding why democracy sprang from the small Greek city-states and not from the wealthy and powerful Persian empire. The public is not clamoring for mom-and-pop stores served by horse-drawn delivery carts. What they fear is an unnecessary giantism in our institutions. The largest of our companies have already grown larger than many nations. Long ago they began to fit Edmund Burke's memorable description of the East India company in the 18th century as "a nation in the disguise of a merchant."

By contrast, we know the virtues of small business. It is the single best source of new jobs in our economy. It is the single best guarantee of free and open competition. It is the single best source of innovation.

The elevator was the idea of a small businessman named Otis.

The airplane was the idea of two brothers who owned a bicycle shop.

And in my home state, it was the high technology firms on Route 128 that helped invent the "silicon chip" for data processing, which some have called the most significant contribution of the decade.

No society can allow its small businesses to be swallowed up by big business. It is time to limit the merger of giant corporations, and reduce their power to absorb smaller firms.

By a vote of over two to one, the NFIB has endorsed the pending anti-merger bill. Mike McKevitt and the NFIB stood with us in the Senate office building earlier this year, as we proclaimed that the days of indiscriminate takeover must end. The best answer to growing corporate power is the strictest possible enforcement of our antitrust laws, and the passage of new laws to plug the serious loopholes in existing law.

But protection against corporate power is not enough. Protection against big government is also necessary. NFIB knows better than most, the stifling influence of endless governmental regulation. The burden is especially great for small businesses, because they can least afford the costs of compliance with a maze of complex and often contradictory requirements.

Between 1975 and 1978, the regulatory establishment more than doubled. It may cost American industry as much as $100 billion to comply with regulations. It may cost our economy as much as $50 billion in paperwork alone. But no one can measure the additional costs in frustration to businesses trying to figure out the rules. One small business in Massachusetts spent over 1300 hours sending forms to different State and Federal agencies.

Sometimes the frustration has a lighter side. A businessman wrote to Senator Culver that he had received a questionnaire which asked him "How many employees do you have, broken down by sex?" He wrote back: "None, our problem here is alcohol."

Economic regulations imposed by Government are often self-defeating. They work against the basic principles of competition and free fair pricing. They work against small businesses trying to compete effectively in the market place by offering lower prices and better services.

That was the major lesson in the fight over an airline deregulation. The C.A.B., the Federal agency in charge of regulation, was the primary cause of high air fares. The agency had effectively outlawed price competition. It channeled competitive energies into gourmet meals, theaters in the sky, and other high-priced frills. When Congress took away that regulatory scheme, the airlines started charging lower fares. They also started making more money. Now, more people are flying, more routes are being scheduled, and more people are employed in the industry. Passengers saved over 2 and one-half billion dollars in fares last year.

The airlines increased their profits by 54% to a record $1.2 billion. And all because we got rid of Government interference.

Much of that advantage accrued to small businesses. The airline industry had been a bastion of protectionism. Now, the barriers have come down. As Milt Stewart told the Judiciary Committee, commuter airlines expanded their operations significantly the year after deregulation occurred. New lines have come into existence. A year ago, there were 116 commuter airlines. Today, that number has grown to 141.

It was such a simple idea. For America, it was almost like re-inventing the wheel. We rediscovered competition. The scheme of Government regulation was a house of cards. It wasn't working, and at last we were wise enough to tear it down. There have been few more satisfying achievements in Congress in recent years than the success of airline deregulation. It's been good for the industry, good for the consumer, good for small business and good for the country.

That same oppressive weight of regulation exists in other sectors of our economy. Take the trucking industry, for example. Since 1935, we have regulated trucks. We have forced them to use listed routes.

We have accepted the fiction that they must rely upon huge capital investments and need protection against wasteful competition. We have regulated their rates—not to keep them low but to keep them high—and thus to protect the monopoly value of their government licenses. We have even gone so far as to legalize price-fixing behind closed doors, through rate agreements that would be a felony in other industries under the Sherman Act. But the trucking industry has an exemption from this most basic of all the antitrust laws.

As a result, government regulation has effectively and systematically reduced competition in the trucking industry. And who gets hurt the most? Small businesses. They are frozen out. Last month in committee, we heard testimony from the president of a small Massachusetts trucking company. He told us he had spent the last thirty years in a bottle. He says his company was frozen in the role of the small carrier—frozen by the I.C.C. itself. If he could ever make the I.C.C. understand, he says, he could provide better service at lower rates than other carriers.

Government regulation of trucking has two results—poorer service and more expensive service. Small trucking firms are prevented from competing. They are prevented from offering lower prices. The way to ensure more service at lower rates—and lower prices for all consumers—is to rely more heavily on competition, free enterprise and the market place, rather than on the decisions of bureaucrats in Washington. That's the way our system of free enterprise is supposed to work. And that's the way it can work again, if we are willing to do something about this present excessive regulation.

So ask the speakers who come before you a few specific questions—if they give lip service to regulatory reform and competition, ask them if they'll stand with you on trucking deregulation. Ask if they'll stand with you against giant corporate mergers.

In specific ways like these, we can make our system of free enterprise work the way it should. In every case, we should start with a presumption which favors a competitive, unregulated market place. Government intervention should come only as a last resort when market forces fail to meet important needs such as protection of the public health and safety, and protection of competition itself. Let us work toegther to build a stronger nationwide alliance for the benefit of our free enterprise system. The common interest we share cuts across all geographical, partisan, and philosophical lines—our interest in restoring competition as the prevailing principle in the economic policy of our country.

Woodrow Wilson once wrote that America was built for men and women on the move, not for those who have it made. The hope of this nation resides in citizens like yourselves who are on the move. What happens to small business is of vital importance to the future of our country. You are a central part of the American dream, the basis of this country's past greatness. I am confident that you will play a major role in guiding our nation safely to the future. And I am proud to stand here with you today.

ADDRESS OF SENATOR EDWARD M. KENNEDY TO THE AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH AND THE NATIONAL JOURNAL JOINT NATIONAL LEADERSHIP CONFERENCE "REGULATORY REFORM: STRIKING A BALANCE"

I am pleased to be speaking before this National Leadership Conference on Regulatory Reform. The National Journal's coverage of regulatory issues has been fair, detailed and helpful. And AEI's contribution to our thoughts on regulation has been substantial. In a hundred ways—through testimony on specific legislation, through studies and think pieces, through seminars, symposia, and Regulation magazine—The American Enterprise Institute has planted important seeds, focussed Congressional and Executive attention on major problems or perverse effects of regulation, and acted as a stimulant in the growing debate. I may not have agreed with all the positions AEI has taken in recent years. But its ability to inform—and amplify—discussion is undeniable.

While examining regulatory reform, Senator Culver, Chairman of the Administrative Practice Subcommittee, received a letter from a constituent fed up with filling out forms instead of running his business. He had received an EEO questionnaire which asked, "How many employees do you have, broken down by sex?" He wrote back: "None. Our problem here is alcohol."

My own concern with regulatory reform is not new. And neither is the country's. Regulation touches all of us because the cost of transportation and energy, the safety of food, drugs, jobs, and the quality of the environment, are crucial for all of us. If Americans are to believe in their government, regulation must be—and seen to be—fair, reasonable and effective.

In 1860, Ralph Waldo Emerson wrote that "the government, which was meant for protection and comfort of all good citizens, becomes the principal obstruction and nuisance. The cheat and bully we meet everywhere is the government." Twenty years later Congress created the ICC; 100 years later we are trying to uncreate it. In the 1930's Orwell articulated the terrifying vision of a government without limits, whose only constraint was that there were no more people or actions to dominate.

And since that time the growth of government has been explosive. Now we hear that regulation may cost the economy between $25 and $50 billion in paperwork alone; that the regulatory establishment grew 115 percent between 1975 and 1978, incurring annual budget costs of nearly $5 billion; that industry's regulatory compliance costs may be over $100 billion; that regulation may cost jobs, hit small business more heavily, be partly responsible for inflation, and at the same time may be ineffective.

But these costs do not mean that we can turn back the clock and return to the days of Ralph Waldo Emerson. Unlike Mr. Emerson, we live in a complex technological society where consumers have neither the knowledge nor the power to bargain for their interests.

Social regulation brings benefits not just costs. Clean air. A safe working place. Promotion of minority employment. Controlling sickle cell anemia. Safe automobiles. And the difficulty of measuring these benefits is no argument that they do not exist. It is a demonstration that cost-benefit analysis has limited utility in this sphere. That conclusion is confirmed by the fact that cost data comes from interested businessmen whose accountants routinely tally them, while the public has no way or incentive to tally the benefits.

Thus to pay too much attention to cost-benefit analysis or its brother, cost-effectiveness analysis, is to decide policy by relying on only one side of the ledger. That is unacceptable in a society which places a high premium on life, liberty and the pursuit of happiness.

Nor do these costs of regulation mean that we should plunge headlong into deregulation in every area of governmental activity. The history of unregulated markets too clearly shows that they often can prove detrimental to consumers and businessmen alike. Recent revelations indicate that major asbestos firms were well aware of their product's harmful effects on workers and school children, but covered up that knowledge for generations. The power company's behavior at Three Mile Island scarcely justifies a benign faith in the workings of the market. And complete decontrol of oil prices may well constitute a case of the Invisible Hand belonging to a mugger instead of an agent for the general good.

The procedures of government must clearly be updated and revamped to achieve greater speed, openness, fairness and efficiency. But procedural changes in regulation are unlikely to achieve change in its substantive results. Procedure alone will not give us lower prices, better health and safety, or a cleaner environment. And it is results that count.

Time has borne this out. For many years we thought agencies would regulate properly because they were merely transmission belts without power to make substantive policy, authorized only to apply Congress' orders to practical situations. But it is clear, agencies are not just gear wheels, they make policy all the time.

During the New Deal, we admitted this policy role but convinced ourselves that management by experts, controlled by basic precepts—"the science of the regulatory art"—would yield better results. This faith has been a snare and delusion. There is no "science" of regulation; the proper allocation of rates, air routes, fuel oil, or protective respirators cannot be decided by abstract neutral principles.

The procedural answer of the 1960's was to open the regulatory process—to provide more information to participants and allow participation by all potentially affected groups. We are still pursuing that effort, and more needs to be done. But such participation is seldom sufficient by itself to change regulation's basic course.

This is not to say that increased procedural fairness, expertise and participation are undesirable. To the contrary, they are critical in a democratic society. But we cannot count on procedure alone to produce major improvements in regulatory effectiveness.

How then are we to bring about meaningful change? I am convinced the key lies in agency-by-agency examinations of specific regulatory programs. Government bodies outside the agency concerned must take the time and effort needed to force change; they need the help of outside groups committed to fundamental reform. In that work they should be guided by a "regulation as last resort" philosophy. I would call this approach "least restrictive alternative" regulation.

That is the basic rule of our antitrust laws. Under those laws, when firms enter into an agreement, a court asks whether it will interfere with competition. It then asks whether

the agreement is necessary to achieve an important public purpose. And it allows the agreement only if it is "the least restrictive alternative" available to achieve that purpose.

This approach applies to government regulation too. If we start out in favor of a competitive, unregulated marketplace, the government should intervene only when that market does not work properly—when it fails to fulfill an important public need. And when the government does intervene, it should choose the least restrictive means available before turning to self-perpetuating commands-and-controls. At the very least, it should examine available alternatives in a regular, structured manner before choosing that route.

Practical consequences flow from this view. First, in the area of social regulations—traffic safety, food purity, drug efficacy, environmental protection, job safety and health—deregulation is unlikely to be an answer. There are too many powerful reasons—rooted in fairness, social justice, relief for the disadvantaged and under-represented—that will not allow such regulation to be wiped away. We can never stop trying to make social regulation more effective and incorporate new approaches. But past experience with unregulated drugs, pollution, and job conditions shows that relying on totally free markets here would invite chaos. Consumers do not have the knowledge or power to protect their best interests, and the protective efforts of more conscientious firms would be driven to the lowest common denominator. Here the choice will be how to regulate—not between regulation or none.

Second, where health and safety are not paramount, and industry consists of several firms in a reasonably competitive market, the most likely answer is not to regulate. Instead we should rely on the discipline of that market, backed by antitrust policy. This has proved true for airlines. It also applies to trucking and other regulated industries. The best example is the Civil Aeronautics Board.

My Administrative Practice Subcommittee studied the CAB for over 18 months. We found that government regulation itself was the prime cause of high air fares. The CAB had effectively outlawed price competition, while channeling the airlines' competitive energies into excessive scheduling, gourmet meals, and other frills. The result was too many empty seats—for which ticket buyers paid.

Now airlines have been deregulated. And now they are charging lower fares and making more money. Demand has risen, and they are carrying more people to more places than ever before. In 1978:

The real average domestic ticket price dropped nearly ten percent, compared with the Consumer Price Index;

Air customers saved over two and a half billion dollars in fares;

Carriers made record profits of $1.2 billion dollars, for a 19 percent return on equity;

The industry added 12,000 new jobs, including 1,100 at Boston alone.

This is how sensible deregulation can promote efficiency and reduce inflation at the same time.

Trucking is another patient that needs a healthy dose of competition. Since 1935 we have regulated trucks like trains. We have forced them to use listed routes, pretending they were like rail lines whose huge investments in private track needed protection from wasteful competition. We have regulated their rates—not to keep them low, but to keep them high—to protect the monopoly value of their government licenses. We have even allowed them to set prices collusively—behind closed doors—in ways that are felonies in every other industry.

But trucks are not trains, and we should stop regulating as if they were. What is more, trucks are not public utilities. This is not a case where only a handful of firms can operate efficiently. The way to insure fair truck rates—and lower prices for all consumers—is to unleash competition, not cage it more tightly.

Comprehensive legislation to reduce trucking regulation will soon be before Congress. I have already introduced S. 710, which would end legalized price-fixing and limit the ICC's ability to outlaw competitive rates filed by carriers. This is an important step. And beyond it we must move to erase outmoded restrictions on entry, on mergers and acquisitions, on other aspects of truck operations.

I believe we will succeed in this trucking effort. Many of our opponents in this fight for free enterprise are those who often urge less government intervention—for others, not themselves. Indeed, many members of the business community support regulatory reform, but always in someone else's area of business. But with help from the American Enterprise Institute and others, we can win this battle for the American people.

In other regulatory areas, however the answer will not be to wipe the slate clean, but to make regulation less intrusive, less bumbling and bureaucratic. There are many tools the government can use to stop short of—or supplement—direct command-and-control regulation. The government can institute regulatory taxes. It can require more disclosure. It can encourage bargaining among private parties. The practical difficulties with these techniques should not be understated. But they may well make health, safety, and environmental regulation more effective and less cumbersome.

In the environment, for example, the goal is to encourage industry to use less polluting production methods. Environmental taxes as supplements to direct standards have long been advocated by many environmentalists and some in industry. EPA is currently experimenting with systems of "marketable rights" under which new firms can buy rights to pollute from older firms, creating a profit motive for existing and new firms to reduce emissions in the most cost-effective ways. Regulatory taxes have been used to increase the price of throw-away cans and non-returnable bottles, encouraging buyer shifts to more socially-desirable products. They might also be used to regulate the price of cigarettes with dangerous levels of tar and nicotine, or to raise the prices of automobiles with low gasoline efficiency.

We might also use increased disclosure to warn consumers away from products we do not want to forbid. We use mandated disclosure as a regulating technique in drug labelling, in food packaging, at the gas pump, in the stock market. It is less restrictive and sometimes more effective than banning a substance or product. As we discover that more and more necessary food substances also carry risks, we may want to require food labels warning consumers to eat what they want, but not too much of any one thing. Some have suggested a "dangerous food" area in each grocery store for products whose intake should be restricted, though not banned entirely. And as a result of the saccharin mess, FDA itself is exploring the possibility of regulating only "involuntary exposures" to food additives, not the hopeless task of regulating exposures which consumers with full knowledge still desire.

We might also make more use of informal bargaining to attain regulatory goals. In some European countries, workplace safety problems are negotiated between unions, management and a government representative. Certain firms have quietly begun to work with OSHA to explore such techniques here. This process can take place on an informal plant-by-plant basis, producing more effective regulation as well as freedom from unwieldly requirements. It can also make direct government enforcement a matter of last resort rather than one of first instance.

Finally, in some areas it will not be possible to avoid direct regulation. Thalidomides must be banned. Nor would it be wise to rely solely on the market place for the purity of our air or drinking water. Effective regulation is as important to parents filling a prescription as to the worker who breathes the air in his plant. Government safety standards are equally important to the traveler in his plane and the machinist at his workbench. There must be a Federal Aviation Administration and there must also be direct government concern with worker safety. Reform here will be complex. It may involve giving agencies more resources, or changes in procedure. It may involve increased enforcement, or systems that encourage more voluntary compliance. It may also involve an admission that what works for General Foods is not right for the corner grocer.

But in all these cases we can do more. We can encourage others to follow the same case-by-case approach, and to do so by pro-competitive means. We can legislate a system that will encourage scrutiny of individual agencies and require detailed reform plans. And we can promote regular examination of less restrictive alternatives to attain legitimate regulatory ends.

This week I will introduce legislation which adopts this substantive-reform approach. The bill has three basic objectives.

First, it will institutionalize substantive reform on a case-by-case basis, analyzing each agency by asking these questions:

What is the market defect that justifies regulation by this agency?

Are the methods used to correct this defect effective in achieving that goal?

Are there less restrictive alternatives?

The bill contains a "High Noon" provision which, by two trigger mechanisms, will expose a specific regulatory agency each year to the kind of piercing light that should uncover any defects.

The first trigger requires the President, with a newly established Committee on Regulatory Evaluation—a committee with a fundamentally pro-competitive outlook—to propose a regulatory reform bill and report dealing with one listed agency each year. Wherever possible, this report will review alternatives to direct regulation, evaluate pro-competitive improvements, favor consumers.

The legislation mandates presidential review of ten categories of agencies in the decade between 1982 and 1992, including the ICC, the FMC, the FCC, environmental agencies, and banking and financial regulatory agencies.

Once in Congress, these reform proposals will be referred to the appropriate committee, which has 360 legislative days to consider the bill, amend it, report it out.

Then comes the second trigger—a procedual trigger. If the committee does not act within a year, the bill can be discharged for privileged floor consideration. Thus, while it would still take two houses of Congress and the President to enact regulatory reform, and the appropriate committees still retain jurisdiction, this bill obviates the procedural tie ups which frequently prevent Congress from getting to the heart of the matter.

Second, the bill will focus on the daily substantive activities of regulatory agencies. Agencies concerned with economic regulation would be forced to consider whether their aims might be achieved through less restrictive alternatives and greater reliance on competition. This is an approach to reduced regulation which relies on agency. rather than congressional initiative.

This proposal will increase the use of competition as a regulatory tool. It targets the four types of federal regulatory activity which substitute direct economic regulation

for the marketplace and which have historically had severe anticompetitive effects: limits on entry, control over prices, restraints on the amount of goods and services which may be produced or distributed; and approval of anti-competitive agreements among competitors.

An agency may regulate in these ways only after it has considered the competitive effects of the action and concluded that action is the least anti-competitive alternative available to achieve its goals. Agencies may still regulate in the manner they deem necessary, but would be required to consider competition to the maximum degree possible.

Third, the bill will increase the amount of meaningful public participation in agency rule making. This is critical not only for fairness but for improved agency decision making.

The bill increases public participation in four ways:

It reforms the barebones "notice and comment" requirements for agency rule making and requires that rules which have a major impact must give the public an increased opportunity to understand the arguments made and rebut them.

It expands the kinds of rules which are subject to public participation by removing across-the-board exemptions for a number of agency functions presently immune from public scrutiny: the military, foreign policy functions, procurements, the giving of grants and benefits.

It requires agency officials to log and summarize all communications made to them about a rule from persons outside the government after the proposed rule is published in the Federal Register.

And the bill provides public participation funds for those persons and groups who will provide important points of view that should be taken into account in rule making.

Finally, the bill improves the quality of agency procedures by setting up a committee in the Administrative Conference to create a uniform code of administrative procedures.

These provisions are consistent with the major regulatory reform bills now before the Senate, the Ribicoff bill and the Administrations proposal. They complement and strengthen those bills. And they are consistent with what lies beneath those efforts—the widespread belief that there is too much costly and obtrusive government regulation that Congress has created as many regulatory problems as it has solved, and that there is need for greater public participation in agency rule making procedures.

As we approach the 1980's, the issue of government credibility—its ability to respond sensibly and effectively, to know when to stay out as well as leap in—has grown larger.

Our citizens and businesses feel overregulated. But to most Americans regulation is not the President. It is not the Secretary of Energy or HEW. It is not even Washington. It is the energy allocation guidelines no one can understand. It is the government contract officer who puts people through hoops before he will look at their applications. It is the inspector from FAA or USDA or OSHA who may hold life and death power over their businesses but does not seem to understand their operations and acts unwilling to learn.

Striking the proper balance between compulsion and choice for individual citizens must be our focus. That is where gains must be made if we are to make a real difference. For if faith in government's good sense, and even sanity, continues to decline, the will to respond where national response is truly needed will soon be gone too.

The high cost of regulation, inflation, the general public feeling the government intervenes too much in our lives, and the breakdown of classical rationales for federal regulation are the mainsprings of the current debate over regulatory reform. They are the reasons this subject has become more than the preserve of academics and commissions whose reports gather dust on Washington's bookshelves.

The answers to this debate will not be found in a return to the government of Franklin Roosevelt. But they will not be found in a return to McKinley's either. They will require new approaches and much hard work. But that is something America has never been afraid of. Let us renew that fearless belief in new ideas. Let us strive together to make government work better for all the people.

[From Barron's, Apr. 30, 1979]

WHAT KENNEDY WANTS—TRUCKING DEREGULATION, FEWER MERGERS, MORE COMPETITION

WASHINGTON.—Edward M. Kennedy is a Senator on the run—even if he's not officially running. His working pace since he became chairman of the Senate Judiciary Committee in January seems out of step with the more measured tread of Congress as a whole. About him and his suite and his staff in the Dirksen Senate Office Building hangs an air reminiscent of earlier Kennedys, whose photos cover the walls. And, of course, he has inherited the Kennedy political mystique—whatever he says on virtually any subject, no matter how cursory or casual, commands instant press, often read unhappily by the business community. Last week, the editors of Barron's sat down with the Senator for an informal and somewhat discursive airing of his views on a sweep of subjects from health care to tax reform. The accompanying Q. and A. is the result of the session.—Roscoe C. Born.

Barron's: In the span of about three weeks recently, one syndicated column called you "business' hair shirt" and generally depicted you as the *bete noir* of the corporate world, while another syndicated column called you soft on business and accused you of placating the "fat cats." Which characterization would you more readily identify with?

Kennedy: It's better, rather than to just look at the labels of recent times, to examine what I've been trying to do over the last several years in the area of competition—since I've been a member of the Judiciary Committee. That committee, of course, has the prime responsibilities in the area of competition, through the Antitrust Subcommittee. We started 4½ years ago, the first real hearings on airline deregulation legislation. And through the leadership of Sen. Cannon, myself and others in the Congress we have brought about increased profits for the airline industry; we've increased employment; we've increased return for the stockholders and the investors; and we have made some very small steps forward in the battle against inflation.

Q. And you're now looking to take some other such steps?

A. Even before we had completed the final legislative signing on airline deregulation, we were already looking to see how we could take those same lessons and apply them to the trucking industry. Again, to bring about a heavy reduction of government interference, to permit more competition through the elimination of the antitrust exemption of the Motor Rate Bureaus. But we have faced the very powerful forces in the Congress of those that are particularly interested in supporting the position of the truckers and the Teamsters.

Q. Well, Senator, do you think the Administration really made a bad deal on this one?

A. Well, if I could just sort of finish * * *

Q. Sorry. Go ahead.

A. This is really predicated on my very strong view that in the area of economic competition the federal government role can be very dramatically reduced. That the decision making by American industry and business ought to be done by businessmen and women. This is something that I believe in, and we can do it in other areas of economic regulation.

Q. What other areas do you have in mind?

A. For example, energy competition. I believe that we are much better served as a country if we have competition between energy sources. I believe that the decision about the future of various alternative energy sources ought to be made by the free market, not in the board rooms of just one energy resource which happens, because of its economic power, to be able to control other energy sources. We have tried in other areas to respond positively and constructively to many of the concerns that businessmen and women have about the role of regulation—and I think we are making some progress. Through all of this, basically, we have been trying to foster a pro-competitive spirit.

Q. Do you find any contradictions between your approach in the energy sphere and in an area like health care, where seemingly you do want to have an administered structure?

A. Yes. You see, first of all, with regard to regulation, I think that there is a distinction that has to be noted. I think that there is a role in the narrow but extremely important area of protecting health and safety protection by the government. There is an appropriate role, obviously, for the Food & Drug Administration.

Q. We were thinking more in terms of health insurance.

A. On the issue of health and health insurance, the program that I support now builds on the private sector. It would build on the private insurance companies. It would, for the first time, have an effective cost-control mechanism, but within that cost-control mechanism we would permit competition within the private sector. That competition does not effectively exist today. The competition which now exists within the private health industry is what we call "experience rating" or "community rating." A company will try and offer a health-insurance package at a lower rate—because the group that it hopes to serve is the healthiest. Meanwhile, the people who are the sickest, who have sick children or have some kind of pattern of previous illness and sickness, are excluded from the system. And that has to be remedied. I believe we can reach the issues of cost control and the issues of equity by working with the private sector, and that will be the basis of the legislation that we'll introduce in the next couple of weeks.

Q. Do you think there is something peculiar about health care that makes health. . . .

A. Sure, sure.

Q. . . . the only sector that would be controlled, really.

A. A very important distinction. If you have three hospitals next to each other, you don't find that the competitive forces work as if you have three different types of widgets or three different types of automobiles. If you have three different hospitals, the prices of all the rooms go up, because the provider is basically the decision-maker in the distribution of services as well as in technology. If you have three hospitals, each of them wants the latest in terms of technology; they all want CAT scanners, they all want the trained personnel to use the CAT scanners. And the net result is that the free-enterprise system does not effectively function. When an individual goes into the hospital, it is the provider that is making the decision, not the purchaser. And that is a

very basic and fundamental difference between going into a hospital and deciding whether I take United Airlines or TWA or Delta. That's a very fundamental difference.

Q. On trucking deregulation, it seems that the Administration has made the decision to play down deregulation as part of a ploy to get a satisfactory agreement on wages. They ended up with neither. Do you think there's any hope for trucking deregulation in this session?

A. It could be probably the single most important action that could be taken by the Congress to deal with the problem of inflation. Our estimates, after some 15 days of hearings, conservative estimates, are that the consumer would save $2½ billion nationwide. Barry Bosworth of the Council on Wage & Price Stability has estimated it would be $5 billion.

Now, you can ask, well, are those really realistic estimates? If you take a look at the GAO report, it showed that the savings in airline deregulation were $2½ billion for the consumers, which was about 40 percent higher—30 percent-40 percent higher—than the estimates which we had placed on it previously, a year ago. I think the same kinds of savings would apply in the area of trucking.

Q. How do you rate your chances?

A. It's basically a tough and difficult and uphill battle. We have a major educational job to do and we need the help and support of the business community to be able to do it. It's very, very important, but its' going to be a tough job.

Q. Do you think rail deregulation will come ahead of truck deregulation.

A. Well, on the legislative program it appears to have a higher priority. Of course, rail deregulation has different characteristics from truck deregulation. Trucking, for example, is one of those fields it's easiest to enter; it's more competitive because the capital investment is more manageable. With railroads, it's much more difficult in terms of entry—and entry has a very important impact on competitive forces.

But the best example of where competition can function and work is in trucking. About 40 percent of it is already effectively deregulated; that 40 percent is in agricultural products. There, we get good service. Their increases in the cost to the consumers have run less than increases in the Consumer Price Index over the last 10 years, as a result of competition. And there we get service to smaller communities and good performance.

Q. Could we go to the antibusiness image you have?

A. Haven't we got you convinced yet?

Q. There's great fear and trembling about your proposal to contain mergers.

A. Well, let me just say that I've been very much heartened by the kind of support—the bipartisan support—that we have received. For example, a freshman Senator, Larry Pressler from South Dakota, who represents a state of small shops, small businesses, and an agricultural and rural community, a Republican; he's a strong supporter of this legislation. I've been impressed by the support that we received from the National Federation of Independent Business, 570,000 businessmen and women. I've been impressed by the eloquent testimony that we received from the chief executive officer of Control Data Corp. before our committee supporting this legislation. And, basically, what I'm hearing from each of those groups is the same kind of concern that we hear from others; how are we going to preserve the forces of competition within our society?

Q. How did you arrive at the figures—the exact billions of sales and billions of assets that would mean a company was restrained from merging?

A. These were basically figures that were selected to deal with the largest economic kinds of concentrations. They dealt with the top 100 economic units, and then the next phase would be the next 400. . . .

Q. But you are postulating, it seems, setting up another bureaucratic structure. Somebody is going to have the power to say yes or no, and presumably to get that power you are going to have to have investigatory powers.

A. Basically, the issue that we are addressing is the explosion of conglomerate power and authority and growth in the period of these last three years or so—14 mergers of companies of over $100 million in '75, 41 in '77, 80 in 1978. Look at every statistic and we see the explosions of these mergers. I am not against bigness or size. I think companies that are attempting to develop new industries, to provide better services at cheaper prices for the American consumer, are making a very important contribution to the American free-enterprise system.

I can think of the difference, for example, in the attitude that has been taken by one of the major companies of this country, Exxon. As a matter of management decision, Exxon has been involved in developing new competitive entities to compete with existing entities, which has meant more jobs, better service at lower prices for consumers generally. However, other major oil companies have committed themselves to merger. For the most part, this has not provided any additional services or efficiencies. And I think that if the trend to merger continues, we will see a very important dampening-down of the effective potential forces for competition in our society.

Q. On that list of endorsements, we're sure you didn't have one from a society of shareholders. Because, for several years there, mergers were the only thing that kept Wall street alive and made any money for investors. There is an argument that many poor corporate managements will be insulated by your bill, will perpetuate themselves because they know they don't have to worry about being taken over.

A. That, of course, wouldn't be so, because under the provisions of the legislation, we permit the spinning-off of comparable assets by a company which wants to make an acquisition. And then we have also established a business efficiency test for the second tier.

Q. What would you hope to achieve by all this?

A. Basically what we're interested in is the strengthening of competition within the system. We are very much concerned about this very recent phenomenon, which I think has to be troublesome to not only American industry and businesses, but I would think to the American people. You can't on the one hand have the concern that the American people have about big government—whether it's big federal government or state or local government—and not feel that the American peole are concerned about the concentrations of power and authority in units which are controlling their lives and over which they have very little influence and control.

Q. Of course, the states, in a way, have functioned in this area. They have been rather effective lately in blocking mergers. The legislation might just atrophy another state power.

A. I don't think so. As one who strongly supported the provision in our last Law Enforcement Assistance Act to provide resources to the states to help them in antitrust development, I strongly believe in a vigorous effort on their parts and will certainly work with them.

Q. Do you feel that you are out of sync with Proposition 13 psychology?

A. I think Proposition 13 psychology is a reflection of the weariness of the American people in dealing with the continued growth of inflation in our society. They are anxious about whether they are going to be able to afford tuition for their children's education, whether they're going to be able to afford the taxes on their homes, the interest rates on their mortgages, and the fuel oil for next winter. And with that has come the sense of frustration about decision-makers. And the easiest way for them to express this is at the polls. I think that anxiety is one all of us have to share with them. I think the No. 1 problem that we face in the nation is how to deal with inflation. And I think that there are things that can and must be done.

Q. What?

A. I think deregulation was one positive step that helped us in one industry to try and come to grips with it. We've seen reductions of tariffs in airlines of up to 50% in some areas. And we see a backlog of orders in airplanes, we see record profits, and we've increased jobs—I know just at the Logan Airport, 2,000 jobs.

Q. You are using a period of general prosperity in measuring the impact of deregulation; it'll be interesting to see what happens to the airline industry if we have a recession. But in any case, how do you feel about mandatory price and wage controls? Do you think that is a solution to inflation?

A. No, I would be opposed to those.

Q. Let's turn to the Illinois Brick decision, in which the Supreme Court said that only direct, primary purchasers of goods whose prices had been illegally fixed could claim damages against the fixers—that indirect or secondary purchasers could not sue for damages. Why are you trying to overturn that decision by legislation?

A. The fact of the matter is that prior to the Illinois Brick decision, the idea of the indirect purchasers being able to recover their loss as a result of price fixing functioned and worked. It did in the Ninth Circuit. And my own belief is that the most effective enforcement of anti-trust should be through the private sector. We need a strong anti-trust division, but I think inherently the enforcement of antitrust laws should be in the private sector. And if you deny the opportunity to a very significant group of injured groups. . . .

Q. You mean the indirect purchasers?

A. Yes, the indirect purchasers. If they cannot sue, then I think we lessen the effectiveness in the enforcement of antitrust through the private sector, and I think we also fail to have these individuals compensated for wrongdoing from price fixing and the like.

Q. How do you rate the chances for legislation to do that?

A. It's close. I think it's close.

Q. One last question. Is tax reform—in you view and by your lights—dead?

A. I think the American people have shown their enormous local interest in tax equity and the size of taxes, enormous interest in the taxing process, whether it's been at the local or at the state level. It hasn't been as targeted in our discussions or debates on the Internal Revenue Code, but my own sense is that it will be. The last really important debate that we had on the tax issues was in '76. Let me just make a final point on this. There's great focus and attention, as there should be, on the appropriations of the Congress and Senate. It seems to me the fastest growing federal spending today is through tax expenditures. And the growth of those tax expenditures have the same impact as direct appropriations on the size of the deficit. . . .

Q. Tax expenditures? We're talking about tax breaks, right?

A. There's a whole range of different provisions in the Internal Revenue Code that differentiate between how income is treated and evaluated. Now it seems to me that we in the Congress of the United States have to try and use a similar standard for appropriations as for tax expenditures. Is the public purpose being served—a legitimate national purpose? And are we better off doing

it through a direct appropriation or through a tax expenditure?

Q. Could you give an example?

A. Well, home ownership is desirable for the American people. Are we not wiser to do it through the tax system than we are through a direct appropriation? Clearly so. And so we use the taxing mechanism to do that in terms of mortgage deduction. Now, once we decide that we use the taxing mechanism, then is the taxing mechanism that we use the most efficient and effective from a public-policy point of view to carry forward the public purpose?

Q. Was that essentially your objection to capital gains relief?

A. I believe the tax incentives for investments are both needed and justified. But I also believe that the incentives have to be efficient. I favored a reduction of two percentage points in the corporate tax rate last year as a more efficient method of stimulating capital formation than a reduction in capital-gains tax. I called the capital-gains tax cut a Rube Goldberg device because it was so poorly designed to achieve the legitimate goal of promoting business investment.

We could have obtained a great deal more investment for the same revenue cost through a corporate rate cut. The same would be true of increased depreciation allowances or an expanded investment credit, for that matter. Either of these alternatives would have been preferable to a reduction in capital gains taxes. This would lead to the development of new capital, which would mean new jobs, new innovation, new technology.

Q. Do you put tax shelters for oil in the same basket as the others you obviously think are inefficient or inequitable?

A. Well, sure. Yes. The question is whether you'd want an energy tax shelter, the benefits from which go, very substantially, to a dentist in Chelmsford, or whether such benefits should go to those that are really taking the risk.

ADDRESS OF SENATOR EDWARD M. KENNEDY BEFORE GREATER BOSTON CHAMBER OF COMMERCE, FEBRUARY 9, 1976

It is a pleasure to be here with you this morning and to see so many good friends and leaders in the business community of our city and Commonwealth.

I am especially grateful to Al Kelley for his generous introduction. As Dean of Boston College and Chairman of the Chamber's National Issues Council, Al has been an outstanding leader in both education and business life, and I am proud to join him here today.

Over the years, the Greater Boston Chamber of Commerce has played an effective role in shaping important public policy issues affecting Boston and our entire Commonwealth and nation.

I see many here with whom I've worked closely in the past. I look forward to working with you in the future as we try to deal with the serious challenges facing us at every level—Federal, state and local.

REGULATORY REFORM: A CONFUSED NATIONAL ISSUE

I want to share my thoughts with you and offer some possible approaches on one such challenge we face—the reform of Federal regulation. You all have noticed how the issue has come increasingly to the fore. Publications as diverse as Business Week, the Wall Street Journal, Harper's and the New Republic have written thoughtfully about the problem.

But it is more than just a philosophical question in a newspaper or magazine. It is a bread and butter issue for every businessman and woman in Massachusetts. You are the ones on the firing line. You understand the crisis over regulation, because you know it in your business, you see it on your balance sheet, and you feel it in your pocketbook.

Slogans calling for deregulation and less government strike a responsive chord in all of us. There is widespread disillusionment among our people about the quality, and sometimes even about the sanity of their government. If you want to ruin the day for a Boston businessman, especially a small businessman, ask him what he thinks about the Federal agencies called the Occupational Safety and Health Administration, the Environmental Protection Agency, or the Consumer Product Safety Commission.

In the wake of Watergate and Vietnam, it is natural that there should be deep skepticism about local, state and federal government, and growing doubts about the health of our democracy itself. But the campaign rhetoric these days is overblown. This may simply be one of the occupational weaknesses of politicians in a year divisible by four. But it adds to the cynicism and distrust that is plaguing all of us in public life.

I think we can thread our way through these divisive passions and come up with much more constructive answers than the slogans being handed out to us along the campaign trail. The task for all of us—in business as well as politics—is to start making sense out of the maze of Federal regulation. If we achieve anything in this bicentennial year, let it be a commitment to a new era of better government for America.

And when I say better government, I do not mean simply bigger government that crowds out the private sector. I do not mean more expensive government that throws more tax money at age-old problems. I do not mean a more intrusive government poking ever more deeply into the affairs of business.

We cannot solve the problems of the Seventies by reverting to the government of Franklin Roosevelt's New Deal or even the New Frontier of John F. Kennedy.

But we also cannot solve our problems by reverting to government in the image of William McKinley or Herbert Hoover. The solutions appropriate to those simpler eras of American life are inadequate today. To recall those eras in today's enchantment with nostalgia may be harmless and entertaining. But to recreate them in today's government or along the campaign trail is dangerous and irresponsible.

I say to you, beware of candidates whose message for America is to turn back the clock, switch off the light, roll up the sidewalk, and put out the cat. We cannot hope to move America forward, if America's leadership is always looking backward.

We have had some serious failures of government in this country. But we have also had some great successes. Now, as the passions of the recent past begin to fade, let us develop a modern role for government, a role that will be as responsive to the nation's modern needs as government used to be at our finest moments in the past.

I believe that the first and most important step we can take to reach that goal today is to do a more effective job of reforming the Federal agencies and improving the strained relationship between government and business.

The challenge is not a new one. Some historians believe that most bad government has grown out of too much government. People have been grumbling about government in democracy since the days of ancient Athens.

Plato wrote in the Republic that, "Until philosophers take to government, or those who now govern become philosophers, so that government and philosophy unite, there will be no end to the miseries of States."

The great English historian Macaulay wrote that, "Nothing is so galling to a people, not broken from birth, as a meddling government."

And Ralph Waldo Emerson of Boston wrote in 1860, "The teaching of politics is that the government, which was set for protection and comfort of all good citizens, becomes the principal obstruction and nuisance with which we have to contend. The cheat and bully and malefactor we meet everywhere is the government."

So the challenge is not a new one for America. A few years after the Interstate Commerce Commission was created in the Nineteenth Century, a report appeared, recommending basic changes. Those early recommendations have never been followed by anything except decades of additional reports and similar proposals. We have seen the recommendations of every President from Harry Truman to Gerald Ford. The Hoover Commission, the Landis Study and the Ash Council have come and gone passing across the Federal sky like meteors that flash brightly for a moment and then return to darkness.

Today, however, we are beginning to detect some motion, because regulatory reform has a new and special urgency. The costs to business and consumers caused by ineffective regulation are hard enough to bear, even when times are good. But they become intolerable in times of severe recession and ruinous inflation. It is bad enough for government regulation to stifle healthy competition, or frustrate invention and innovation, or cause higher prices and inferior products when the economy is on an even keel. But it is even worse for government to impose these costs when inflation and unemployment are soaring hand-in-hand to double digit levels and producing hardships for millions of our people.

Over the past two years, I have begun to acquire a better understanding of the problem. I have presided over a series of hearings and studies in the Senate on the problems of federal regulation, especially the problems affecting the operations of three specific agencies—the Federal Energy Administration, the Civil Aeronautics Board, and the Food and Drug Administration.

The rulings of these agencies have an impact on all of us—as businessmen, consumers, and citizens. The Federal Energy Administration can mean life and death for the homes and factories of New England. The Civil Aeronautics Board controls the costs and service of the airlines for Boston and almost every other city. The Food and Drug Administration tells us which prescription drugs shall be available on the market, and guarantees that the drugs we buy are safe and effective for our use.

My investigations in the Senate have tried to lift the corner of the rug in all these agencies. And I can tell you that what I have found is shocking evidence of incompetence and ineffectiveness. If a doctor treated his patients the way these agencies treat American business and the American consumer, the patient would be dead and the doctor would be guilty of malpractice.

Let me take them briefly, one by one, to suggest what we are finding.

ENERGY REGULATION BY THE FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration had the job of fairly and efficiently allocating our limited supplies of oil during the Arab oil embargo. In addition, among its other major tasks, the FEA has continuing responsibility to enforce the price regulations for petroleum.

The FEA's performance is an almost classic example of government red tape. We found, for example, that the net result of FEA's enforcement effort was the collection of nearly a million dollars in penalties against small wholesalers and retailers of petroleum. But not one penny was collected from the large refiners and the giant integrated oil companies. The disparity is not explained by better compliance with the regulations by the larger companies. Rather, the FEA explained, the big companies with their batteries of lawyers and accountants were able to find the loopholes in the rules and tiptoe safely through them—within the letter of the law, perhaps, but hardly within its spirit.

As one FEA official told us, a small inde-

pendent producer had to keep his records in a log book on the back of a pickup truck. He could not even understand the regulations, let alone comply with them. The agency even managed to confuse itself. The FEA regional office in Boston found the enforcement regulations so complicated and unclear in 1974 that it had to request guidance from the national office on 38 specific questions. At the time of our hearing in 1975, a year had passed, but the FEA had still not answered any of the questions.

We also found that the FEA devoted little or no time to enforcing regulations on natural gas. One witness told us that consumers may have been overcharged as much as a billion dollars because of this neglect

Equally disturbing was the finding that inadequate FEA regulation was driving independent oil producers out of business and leading to increased concentration in the petroleum industry.

In case after case, we found that government regulation was producing precisely the opposite result intended by our national energy policy of promoting competition in oil and gas and lower prices to consumers.

So far, we have developed more than twenty specific recommendations from our inquiry into FEA. We have suggested that the agency should reorient its enforcement program to provide greater benefits to consumers and more equal treatment for businesses of every size. We have urged the development and publication of clearer guidelines and criteria. Both industry and the public need greater information about what the agency is doing, and the agency staff needs greater guidance in carrying out its mission fairly and efficiently. We have also recommended that the agency adopt more precise practices for identifying and dealing with violations, in order to remove much of the delay and aimless drift involved in the present operation.

AIRLINE REGULATION BY THE CIVIL AERONAUTICS BOARD

The story is different but just as dismal when we look at airline regulation. Simply put, the Civil Aeronautics Board, which is supposed to keep airline fares at reasonable levels, is itself the major cause of higher fares.

A few examples make the point dramatically. Prices on flights regulated by the CAB are twice as high as prices for comparable flights not regulated by the agency. A Boston businessman or woman pays about $50 to fly to Washington, D.C. But a traveler in California pays only half as much to travel a similar distance on flights not regulated by the CAB. He pays only $20 to fly from Los Angeles to San Francisco, and he pays only $30 to fly from San Diego to Sacramento. The same is true in Texas, another state large enough—and therefore fortunate enough—to have airlines free of the CAB.

On routes like these in Texas and California, the CAB is not around to stop new airlines from entering the field. And it is not around to stop existing carriers from competing with each other by cutting prices. The result is lower fares and more frequent service in California and Texas, but higher fares and poorer service in Massachusetts and all the other states that live on routes controlled by this curious federal agency.

CAB regulation has obviously hurt consumers. But ironically, it has not even helped the airlines. The high price policies promoted by the Board have led the airlines down the ruinous path of excessive service—too many planes are flying, and too many are flying empty.

As one witness told us, a passenger is often pleased to find an empty seat beside him for his briefcase. But he might not be so pleased to learn he was paying another full fare as well, for the luxury of the empty seat and the cushion for his briefcase.

You might think the CAB would allow new carriers to enter the industry, so that consumers could have a choice of lower fares and fuller planes. Your expectation would be disappointed. For 37 years, in disregard of its statutory mandate, the agency has prevented any new firms at all from starting up in competition with the original domestic airlines. Since 1950, not one of the 79 applications by new firms to provide new service has been approved. In fact, only a handful of these applications were even granted the courtesy of a simple hearing by the Board. Even now, there is one firm that would still like to make scheduled flights from East to West at half the price of current service. The CAB has sat on that proposal since 1967, and it is still sitting on it today.

To remedy these problems, I do not propose more control or better controls. To the surprise of the Wall Street Journal, the Republicans in Congress and the Ford Administration—and to the dismay of those in the airline industry who are comfortable with the status quo—I have concluded that the proper medicine is less government regulation and greater freedom for private industry.

In simple terms, economic regulation of this inherently competitive industry should be ended. My forthcoming Subcommittee report proposes a step-by-step plan of prudent deregulation to reach this goal over the next few years.

I recognize that an industry regulated for nearly forty years cannot be deregulated overnight. The long-run goal is a truly free enterprise system that will serve the consumer and reward the initiative of the businessman. America will be better served by the invisible hand of competition, instead of the all-too-visible and oppressive hand of the CAB.

PRESCRIPTION DRUG REGULATION BY THE FOOD AND DRUG ADMINISTRATION

The third agency I have investigated involves another form of regulation and another type of problem. Over the past year I have conducted a lengthy oversight investigation of the Federal Food and Drug Administration and the way the agency regulates the American pharmaceutical industry. We have found fundamental defects in the procedures by which prescription drugs are cleared by the FDA for marketing in this country.

The current system would be a delight for Lewis Carroll. But it is a potential nightmare for the nation. We approve a drug for a particular use. We spend millions of dollars and years of time developing the proof. But once the drug is finally approved, we turn it loose on the unsuspecting public, free from all controls and follow up.

We have no idea how drugs are actually used in America. We have no method for identifying adverse drug reactions. We have no way of finding new uses for old drugs.

Doctors may use a drug any way they want—for any purpose, in any dosage, and for any condition. And all these problems are compounded in the case of drugs approved for chronic diseases involving years of daily use.

The real victim of this system is the patient, who is on his own because everyone else has washed his hands of responsibility. Redress can be sought, but only after harm is done. And often, the harm can never be undone.

The FDA itself is over-extended and undermanned. Its responsibilities are staggering. It must guarantee the safety and effectiveness of all drugs and medical devices. It must guarantee that the nation's food supply is safe and uncontaminated. It must guarantee that cancer-causing substances do not reach the family dinner table. It must police the cosmetics industry and carry out an endless list of other major responsibilities. Yet the FDA is asked to do these massive jobs on a shoestring budget that starves the agency and provides inadequate manpower and resources.

These problems are compounded by the fact that the agency has failed to attract and to keep top level scientists. Yet they are the only ones who can adequately review the scientific data on new drugs. As a consequence, FDA substitutes caution and delay for expertise and scientific judgment. Both the public and the pharmaceutical industry pay the price. Some drugs are delayed from joining the fight against disease—not because they are dangerous; not because they are unsafe; but because of FDA's own well-deserved inferiority complex about its scientific judgment.

There are even more ominous findings, however, concerning the safety and quality of America's drug supply. Most drugs today are approved on the basis of tests in animals and humans. Yet the results of our most recent hearings suggest that drugs are sometimes allowed to reach the market despite strong indications of potential danger and inadequate prior investigation. It is possible that millions of Americans are being exposed to drugs approved on the basis of sloppy, misleading, inaccurate or even fraudulent scientific data supplied to FDA.

In December, in response to our investigation, FDA withdrew its approval for a product of G. D. Searle, one of America's major drug companies, apparently because of concern about discrepancies in the experimental data supporting the company's application for the drug. At the time the approval was withdrawn, the drug had not yet reached the market.

But similar discrepancies had previously been demonstrated in the same company's data on two other products. In these two cases, however, the drugs had been on the market for the past ten years before the discrepancies were noted. The drugs are both best sellers in the trade. They remain on the market today while the FDA ponders the significance of the new and troubling findings.

In January, an unprecedented FDA investigation of seven major products of this same company has confirmed the incredibly sloppy and unreliable nature of the firm's research. The Justice Department is now contemplating possible criminal action against the company.

This case history raises distressing questions about the FDA's ability to regulate the drug-approval process. It also raises questions about the caliber of research in other firms. FDA Commissioner Alexander Schmidt is himself uncertain of the answers. He has taken the unprecedented action of launching a plan to monitor research throughout the industry. At the present time, those companies whose work is valid and accurate are suffering a serious loss in public confidence and trust. They will lose much more if the entire industry becomes tainted by the scandal. Only a thorough investigation and assessment of the industry can allay the doubts and restore the integrity that is being lost.

The incidents I have discussed so far relate to the testing of drugs in animals. But in a related development that increases the fears we already have, a new study by the Congressional General Accounting Office has now called into question the adequacy of the way drugs are being tested in human subjects. The GAO found defects—defects serious enough to discredit the tests—in 74 percent of the cases monitored in the investigation. In some of the tests, the procedures for record keeping and patient observation

were questionable enough to make the data scientifically unreliable. In other tests, there were violations of the basic rights of the patients subjected to the tests—procedures so flagrant that the patients were wantonly exposed to potential harm, in clear violation of the strong FDA rules for the conduct of such tests.

Each day, a quarter of a million Americans are participating in tests like these for drug research. Many of them are facing unnecessary danger to their lives and health. Yet the FDA as now constituted seems incapable of monitoring what is going on, incapable of even detecting this major breakdown in the way its rules are carried out.

Finally, in this area, let me tell you the story of one additional finding we have made. Premarin is the name of one of the most popular precription drugs in America. It is widely used by American women to relieve the symptoms of menopause. It is the fifth largest selling drug in the nation. Its sales reached $80 million in 1974.

Premarin made its first appearance in American drug stores in 1942. And then in 1975—one year ago, after 33 years of sales—the discovery was made that American women taking Premarin have five to eleven times the chance of developing a particular type of cancer compared to women who do not use the drug.

That discovery is alarming enough. But what is also alarming is that the discovery was not made by the company that developed and marketed the drug. It was not made by any of the countless doctors who have prescribed the drug for a generation. It was not even made by the FDA, whose duty is to protect the public from cancer causing drugs.

No, the discovery was made by a young PH. D. in Southern California named William Finkle, who was working for the Kaiser Foundation Health Plan and who spent a total of $1,600 reviewing records and data that could have been discovered by others at any time in the past 15 or 20 years.

But the story isn't over yet. According to the FDA, Premarin is intended only for the temporary physical symptoms of menopause. But it was widely sold, and widely advertised and promoted, as a tranquilizer for relieving the daily tensions of women in their older years. As a result of this promotion, five million American women took Premarin in 1974, even though only a little over one million actually went through menopause that year.

There you have the makings of a real American tragedy. Millions of women have been exposed to cancer for more than thirty years. Many have died. And many more persons took the drug than actually needed it because they found it beneficial, and they presumed that it was safe. And all because no one thought to spend the few dollars—barely more than the cost of a sneeze inside the Pentagon—to follow up the drug and see the results that were obvious to anyone who looked.

We simply have no idea how much damage like this we may be doing to ourselves. One expert testified that, as a result of the flood of drugs and pesticides and other substances we have unleashed since World War II, we may well have condemned ourselves to an epidemic of cancer. It may be too late to protect the present generation, but it is not too late to protect our children's generation and the generations that will follow.

There are some, even in the Senate, who believe that the Federal Government should take over the entire responsibility for all drug research and development. I do not accept that view. America's world leadership in the development of new and valuable drugs stands to the credit and hard work of our pharmaceutical industry, not our government. And that is where the initiative must remain if we are to keep our role of leadership.

Basic changes must be made—but they must be made in a way that builds on the strengths of existing regulations, that deals with the present overwhelming problems and that provides the resources needed by the regulators to insure that drugs are safe.

The legislation I have proposed to achieve these goals is quite unlike the remedy for the FEA or the CAB. The Food and Drug Administration is a classic case of the need for better regulation. Less regulations or no regulation is not the answer. It would be irresponsible to deregulate food and drugs. We cannot leave the health and safety of the American people to the trial and error of the marketplace.

SOME SUGGESTIONS FOR REGULATORY REFORM

I have spent some time discussing these three agencies because they illustrate so many different aspects of regulatory reform. In each area, I have made specific proposals for change, either in the form of legislation or as recommendations to the agency. But I also feel that the investigations suggest a general framework for a wiser approach to some of the broader issues of regulatory reform.

Sometimes we need less regulation, as in the case of naturally competitive industries like the airlines. Sometimes we need more but better regulation, as in the case of the pharmaceutical industry and other areas where the public health and safety are involved. Sometimes we need regulations that is capable of dealing quickly with a shortage or other sudden emergency, as in the case of the Arab oil embargo.

Simple slogans cannot deal with this complexity. When the Ford Administration tells you it is time for the government to get off the backs of business, they are only telling you a portion of the truth. There are many cases in which government should get off the backs of business. But there are other cases in which government should get on your backs a little harder. The real test of leadership in this area is whether your leader knows the difference.

The government has a large array of options to use in regulation. There are the traditional methods of setting rates or imposing health and safety standards. There are also such methods as antitrust policy and the taxing power. There is the possibility of even more direct government intervention, such as through the creation of public corporations, like TVA. And, of course, there is also the option to do nothing—for government to keep out.

As past experience makes clear, some of these options have been used too much, while others have been used too little. The most important challenge of regulatory reform is to choose which tool to use. As we begin to meet that challenge, I would offer a few principles and suggestions:

1. To regulate or not to regulate

First, where health and safety considerations are not paramount and where an industry is made up of several firms in a reasonably competitive marketplace, the most likely answer is not to regulate. Instead, we should rely on the discipline of the market itself and antitrust policy. This is certainly true in the airline industry, where regulation has led to excessive capacity and higher fares. I suspect the same is true for the regulation of trucking by the Interstate Commerce Commission and the regulation of shipping by the Federal Maritime Commission.

Many persons in public life are beginning to understand this view. Even the most die-hard New Dealers are beginning to see their failures in cases where misguided faith in regulation has spawned serious setbacks for competition and needless inflation for consumers.

Ironically, the persons who are most fearful and distrustful of the free enterprise solution are often those who manage the regulated firms. Just as we should beware of bureaucrats with a vested interest in government controls, so we should beware of managers with a vested interest in the protection that regulation gives their firms.

Competitive freedom will not mean, of course, a perfect marketplace. There will be defects, and even occasional injury and unfairness. But in these areas, the alternative to the imperfect marketplace is the use of even more imperfect regulation.

Regulators are human. They are subject to intense political pressures. They must operate through, and often in spite of large bureaucracies. They are presented with tasks of enormous and sometimes insurmountable complexity. It is no wonder that in basically competitive industries, regulation stifles competition, frustrates change, and raises prices. It is no wonder that regulation is often ineffective, is frequently mistaken and is occasionally corrupt.

Of course, competitive freedom does not mean the absence of all kinds of government intervention. Market forces are the appropriate way to keep air fares down. Airlines should have the freedom to determine their own prices and enter the markets of their choice. But they must continue under strict safety regulation, and the regulation must continue to be carried out by the government. I doubt that any of you would want it any other way.

Moreover, as the business community also understands and accepts, a free market does not mean a market free of vigorous antitrust enforcement. Without effective antitrust laws, price fixing and other restrictive practices would flourish, competition would be destroyed, and government regulation would be inevitable. In this sense, a vigorous antitrust policy is the wise restraint that makes the market free.

2. Use of the taxing power in Government regulation

The second suggestion proposes wider use of the taxing power in situations where competition is flourishing, but where the forces of the free marketplace do not always serve widely accepted social goals. The challenge here is to steer competitive energies in directions they would not go if left alone.

We already use the Internal Revenue Code heavily to provide tax preferences and incentives for many worthwhile, and some not so worthwhile, economic and social goals. But we have been reluctant to use the Code in the other direction, as a means of regulation where increased taxes would be required.

The discrepancy is largely caused by politics and votes. Ask a President or Governor, or a State or Federal legislator, to lower taxes and he will not wait for reasons. But ask him to levy a higher tax and he will have a thousand reasons for delay. The result is that a potentially effect tool of regulation is often never used.

But the wise use of the taxing power can encourage consumers and producers to adopt habits more in keeping with our goals. Where the problem is one of producing or consuming "more" or "less", rather than "all or none", an iron fisted response by government is inappropriate. The response should not always be to ban, forbid or proscribe, on the one hand, or to require and mandate, on the other.

Instead we can achieve the results we want by gently nudging the private sector through wise and effective use of the taxing power. We need not always rely on arbitrary government prohibitions and the arbitrary government bureaucracies those prohibitions always seem to spawn.

A search for ways to substitute tax mechanisms for absolute government standards could bear fruit in several areas.

In the case of the environment, the task is to encourage consumers to buy fewer polluting products, and to encourage industry to use less polluting methods of production.

A regulatory tax can raise the price of cans and non-returnable bottles. It can raise the price of cigarettes with dangerous levels of tar and nicotine, as in the case of a Senate bill I introduced two weeks ago. It can raise the price of automobiles with low mileage to the gallon, as Congress has just enacted into law.

A regulatory tax could also help in managing problems caused by certain shortages, where free competition might allow the highest bidder to corner the market on limited supplies, but where more extensive government regulations might cause needless complexity, delay, and inefficiency.

The case of natural gas is another obvious example. Our present problems might have been less severe if we had used the taxing power in the past instead of relying on the government to set the price. The problem arose because, as new natural gas became more expensive to find, producers of old gas found that they could charge high prices and make huge profits. Through regulation, the Federal Power Commission kept down the price of gas, but at the risk of discouraging the production of new gas. A tax on the difference between the old gas lost and the market price—with the proceeds directed back to consumers—might have proved a more effective way of dealing with the problem than the futile procedures used by the FPC.

There are, to be sure, numerous practical difficulties. How shall we determine the level of the tax? What producers will be taxed? How can we minimize the adverse effects on the cost of living?

These and other problems must be solved before a regulatory tax is launched. But, that process should begin. If we are serious about finding responsible alternatives to the usual form of government regulation, it is worth the effort. In areas of "more" or "less", a regulatory tax may be no more difficult to apply than other types of regulation. But it might be considerably more effective.

And it would surely be more consistent with the goal of less government and less bureaucracy—and therefore more faithful to our democratic traditions of individuality and free choice. I suspect that opposition to such taxes will significantly diminish, once they are seen for what they really are—replacements for, not additions to, rigid government regulation and vast government bureaucracy.

3. Regulation involving health and safety

The third principle is that in matters of health and safety, the presumption must be in favor of a relatively extensive regulation through standards set by government. The effort here must be directed toward improving the quality of the regulation.

What we found in our work with the FDA is true in most health and safety regulation. The market place cannot adequately protect or police itself, because the public cannot judge the quality and safety of the products in its midst.

Strict, swift and scientific regulation is as important to the parents filling a drug prescription for their child, as it is to the worker who breathes the emissions from his plant. And government safety standards are as important for the traveler in his airplane as they are to the machinist at his work bench. There must be a Federal Aviation Administration and there must also be an Occupational Safety and Health Administration.

But that is only the beginning of analysis, not the end. An over-zealous agency can injure business and the public as easily as an ineffective agency. Burdensome and unnecessary and trifling requirements have often been imposed. They raise the costs of production for large firms, and threaten small firms with extinction. Agency delay may keep valuable drugs from getting to the public, as easily as agency incompetence may be a danger to the public.

There is, of course, no magic solution to the bureaucratic problem. What is clear, however, is that these problems will continue to fester unless we significantly raise the quality of personnel serving in these agencies and give them the resources to do the job required.

Greater sophistication and more confident expertise should replace bureaucratic caution and delay. But civil service traditions sometimes block the way. We must create more attractive career plans and pay scales that will encourage first-rate scientists and economists and other experts to serve in government. We must encourage others to make tours of duty in public service without seriously interrupting their careers in business or in academic institutions. Although the bureaucratic establishment may resist it, we may have to waive civil service requirements to set pay commensurate with what is offered elsewhere. That means creating inequalities among different classes of civil servants. But, we must find a way to provide the expertise. Better regulation in areas where regulation is necessary is as vital to the interest of the businesses that must comply as it is to the consumers who are protected. I have already proposed such steps for FDA, and I believe that similar steps must be taken for other agencies.

4. Making agencies more accountable

The fourth suggestion is that we must begin to consider basic changes in agency structure and procedure. Although such measures may not constitute the centerpiece of regulatory reform, they can play an important supporting role.

In some cases, the concept of the independent agency has long outlived its usefulness. We no longer accept on faith the view that an agency insulated from effective control by the President will automatically operate in the interest of the people.

The New Deal experts believed that independence would mean more "scientific" regulation—management by "experts" whose discretion would be controlled by the basic precepts of what might be called the "science of the regulatory art". But that faith has been a snare and a delusion. We now doubt that there is a "science" of rate making. The proper allocation of airline routes cannot be determined by reference to a body of principles of scientific management.

Nor have the regulators turned out to be experts. Rather the regulatory commissions have proved to be a haven for the failed political candidate, the rich campaign contributor, the occasional aging bureaucrat, and the crony of those in power.

Too often, it is the agency's independence that insulates the agency from the only means we have for achieving continuing public accountability. Independence as a practical matter has come to mean independence from the public interest.

I suspect the time has come to adopt the recommendations of the Landis and Ash commissions, and turn over the powers of at least the worst multi-headed Federal agencies to a single head, and make that head directly responsible to the President.

I do not expect great improvements from such change. But at least the change would make clear where the responsibility for inadequate agency performance lies. By doing so, the change might promote better agency appointments. And in legislating the change, Congress itself would be obligated to reexamine the agency's functions and legislative mandate, as would the new Administrator of the agency.

Practical reasons might lead us to pass over agencies about which there are few complaints. But agencies like the CAB and ICC and Federal Maritime Commission should lead our lists for change.

5. Improving oversight by Congress

Fifth and finally, regulatory oversight by Congress itself is in need of its own reform. The enormous task of effective oversight is often avoided because of lack of expertise, jurisdictional jealousies between Congressional committees, low priority among competing and more highly visible issues, lack of both time and interest, and inadequate resources and expertise.

Congress had a similar problem in the past in the effort to oversee the Federal Budget. And we responded by creating a Congressional Budget Office and two new Congressional committees. That reform is already giving the legislative branch much more effective control over Federal spending. It is the most successful Congressional reform enacted in many years.

I believe we should follow that model to improve our oversight of Federal agencies. We already have Senate and House Committees with primary jurisdiction in the area of oversight. But we should also establish a new Congressional Oversight Office, whose full time function will be to service the oversight committees and continuously review the operations of the Federal agencies. For the first time, that office would give Congress the ability and the resources to insure that regulatory agencies are engaged in the faithful execution of the laws.

As we enter our third century of national life, we must avoid the errors of old age. Our unprecedented national prosperity was not built by excessive caution, but by bold innovation and vigorous competition.

Regulatory reform is a legitimate goal. But, it is a possible goal only if we are willing to experiment with new approaches to our problems. If we wait until every cost and benefit is proved beyond a reasonable doubt, then we shall wait forever before changing the status quo.

Our country was launched as a great experiment. We cannot allow our increased comfort and material wealth to deter us from our traditional confidence in dealing with difficult challenges. The results will justify the effort, and the outcome will be a fitting reward as we try in this bicentennial year to make America work again.

ADDRESS BY SENATOR EDWARD M. KENNEDY BEFORE THE UNITED NATIONS CONFERENCE ON "NEW STRUCTURES FOR ECONOMIC INTERDEPENDENCE," MAY 15, 1975

It is a great privilege and pleasure for me to join with you, today, and with the four sponsoring institutions, in this important conference on "new structures for economic interdependence."

I am particularly happy to join in support of efforts focussed in the United Nations to meet today's great issues of the global economy—today's search for greater equality and economic justice among nations. For it was fourteen years ago that President Kennedy spoke to the UN General Assembly and proposed the United Nations Decade of Development. "Development", he said then:

". . . can become a cooperative and not a competitive enterprise, to enable all nations, however diverse in their systems and beliefs, to become in fact as well as in law free and equal nations."

It is in that spirit that we meet here, today, in the midst of the UN's second development decade, dedicated to efforts that will bring reality to the dreams of people everywhere.

Mr. Secretary-General, at the moment my own country is going through a period of difficult change and adjustment following

the end of the Vietnam War. We are all deeply concerned by yesterday's events of Cambodia—raising new questions, new doubts, new dangers. Our continuing concern is also for the refugees from that conflict—a concern that you have shared, and where your efforts are so valuable in relieving human suffering, wherever it is found.

At the same time, the American people are struggling to turn from their preoccupation with Indochina, to look at the great issues that face us and other nations in the world. For as the Chinese proverb says, "in time of strife and turmoil, great matters become small and small matters become great; it is only in times of peace that great issues are seen for their true importance."

For the first time in living memory, we are looking toward a time when the great issues are not primarily those that concern the risks of war between the great powers of the world. Strife and conflict in the world remain; most recently in yesterday's military action in Cambodia; and there is still serious risk of another war in the Middle East. But there is hope that the great powers can prevent major conflict between themselves—and particularly mankind's final war in a nuclear holocaust. Yet even this does not mean peace among nations and peoples. As President Kenneth Kaunde has reminded us:

"The absence of war does not necessarily mean peace. Peace, as you know, dear brothers and sisters, is something much deeper, much deeper than that."

Nor does peace mean only absence of military conflict. It is critical in other realms as well. Today, the attention of the United States is turning increasingly to a set of dangers and difficulties in another area—that of the global economy. In this concern we are joined by virtually all other nations of the world—great and small, rich and poor. For it is clear to all that the structure of the global economy, set forth for most of the world at Bretton Woods and Havana at the end of the Second World War, is no longer adequate to meet the needs that lie ahead. The rich, industrial nations of the world must find new ways of effectively managing their economic relations with one another. The developing nations—both those with newly-won wealth and economic power, and those which have made dramatic, sustained progress in modernizing their economies—must have greater influence in making rules for the world economy. And today's true have-not nations and peoples need greater help and cooperation from all others in the world community.

From the centers of great economic power, to the poorest village in Asia, Africa, or Latin America, there is a crying need to make the global economic system work increasingly for all—in ways that combine efficiency with compassion and equity.

Here in the United States—and elsewhere in the industrial world—we hear the new demands made by nations and peoples of the developing world. We hear voices raised here at the United Nations—and in other international meetings—demanding a fairer distribution of the earth's bounty. And we must respond.

There are some who choose to ignore these concerns; who are offended by loud demands; who prefer that the United Nations place decorum and civility about honest debate and a clear expression of national views; who prefer a counter-offensive in style without meeting the needs of substance.

I do not agree with that view. I believe that the world's developing countries are right in using the United Nations to express their interests and demands. This is consistent with the highest purposes which delegates sought to achieve when they gathered in San Francisco to create a United Nations just three decades ago.

For it is only in the clash of ideas, in full and free debate, that nations assembled in this great institution can begin to understand one another—can begin to work together on shaping their common destiny. This need not be a threat to the UN system; nor a tyranny of the majority—provided we use the UN system as the charter provides, as an instrument "to harmonize the actions of nations" . . . provided that we not only air differences, but also seek agreed solutions in common. For rhetoric, however valuable, is no substitute for hard thought and concrete action, but action that respects the standards of justice and equality that have been the hallmark of his institution.

Most important, the UN gives us a chance—our only chance—for rich and poor to meet together in a common forum. And what happens here no nation can ignore.

As Secretary of State Kissinger said on Tuesday:

". . . the poorer countries can gain a sense of responsibility and participation only from the sense that their concerns are taken seriously."

We in the industrial world can and must listen to what is being said by others. We must not join in a dialogue of the deaf; but join with others in finding common means to solve common problems.

There is a difference, today, from the demands made by other countries in the past on the distribution of the world's economic product. The nature and distribution of economic power in the world is changing significantly. Rising prosperity in the industrial world places new demands on the world's resources. Economic development is taking hold in country after country, thereby adding to the strain. And the rigid political forms of the cold war have given way to a time of greater involvement of many nations and peoples in major decisions affecting the future of the world.

Today, we in the West are confronted with the reality of new economic power—and a greater measure of organization to assert that power—in countries once poor and powerless. There is also real and increasing interdependence of nations—in food, fuel, fertilizer, and other raw materials, investment, the environment, and the law of the seas.

But above all the debate about the meaning of this new economic world—and the response from nations either rich or poor—three facts stand out:

First, however rich and powerful, no nation—or limited group of nations—can manage the world economy alone.

Second, no nation can escape the consequences of economic changes taking place in distant parts of the world.

Third, no nation can ignore the rest of the world in deciding its own internal economic policies, since these decisions can have a profound effect on economic efforts of other countries.

We are in this together; and our fortunes together will be largely determined by our wisdom and foresight at this moment. Even the United States cannot act in ignorance of, or isolation from, the rest of the world.

Can we be wise enough to see that all nations will lose in a reckless, divisive, economic conflict that pits nation against nation—the North against the South? Will we have the foresight to understand that at bottom we are not enemies of one another . . . to understand that in building on opportunities we all can gain, we all can help make this planet a decent and hospitable place to live?

I believe we can turn away from conflict, and face these problems together. I believe we can work towards new global economic compact, drawing together seemingly conflicting economic needs and interests and converting them into mutual advantage.

Rich countries as well as poor stand to gain from these efforts—from new global economic agreement. What together we can achieve in restructuring world economy will also aid the internal economic policies of rich countries, providing greater stability, predictability, and confidence in the future. It can help generate new investments and new jobs. It can help solve the curse of inflation.

The United States lags far behind the other industrial nations of Europe and Japan in understanding the new demands—the new promise. And in doing so, the U.S. risks the erosion of its influence in international institutions. It risks failing to exercise the leadership so critically needed in the world today . . . for reform of the global economy . . . for the success of trade negotiations . . . for reducing inflation and ending recession. It risks both western cooperation and the reaching out to nations of the developing world.

The attitudes that men and nations bring to the problems of the global economy will largely determine our success in meeting and overcoming the difficulties that lie ahead. This will not be easy in an uncertain world. Yet we can all be guided by our knowledge of the consequences if we fail—a world economy ruled by chaos. In the future, no nation can gain in prosperity by eroding or destroying that of another. No nation—rich or poor can long profit from economic confrontation. Rather we must understand the continued importance of sustained progress in all countries . . . the importance of worldwide economic growth—but a growth that is more equitably shared, both within and among countries. Growth need not be the energy of greater economic justice; rather they can and must go hand and hand. As Prime Minister Wilson said earlier this month:

"It is fundamental that there should be more wealth—more wealth to be shared more equitably. Shared more equitably within nations; but shared more equitably between nations and peoples."

We must also understand that economic rights and responsibilities go together. Neither alone can satisfy the needs of any nation or of the total world economy. Neither alone is enough to promote economic agreement that will last, to build an economic system that will work.

We must begin by understanding what we cannot do. We cannot reach a global compact to solve the world's economic problems, at a single conference, in a single year, or in a rigid understanding that will last for all time. The complexity of the modern world ensures that there cannot be a few simple formulas for regulating and managing the world economy—meeting the needs of both efficiency and equity.

But we can do this: we can recognize the changing character of economic power. We can seek to understand together the magnitude of our common problems. And we can set in train a process of working together that will itself become the most important factor in achieving our goals.

The time to begin is now. For in the world of the Cocoyoc Declaration:

"In a sense, a new economic order is already struggling to be born. The crisis of the old system can also be the opportunity of the new."

This is indeed the opportunity. But can the citizens of my country . . . and yours . . . work together for their common benefit?

First, there must be much greater involvement of different nations—and groups of nations—in making decisions for the global economy. We have already learned that the group of 10 is no longer an appropriate forum in which to make rules for the world's monetary system. What was begun with institutions like the Committee of Twenty, the Group of Twenty-Four, and the Interim Committee of the IMF, must be continued.

It can and must also be continued in the traditional institutions of economic order, by adjusting voting power and contributions in the IMF, the world. There must be a greater role for countries willing to accept new responsibilities . . . willing to support the efforts of others. No lasting bargain can be struck where all parties to shaping and administering it are not fairly represented, or do not see their interests as being fairly served.

Many major decisions cannot be effectively reached by all the world's nations meeting together. While the UN General Assembly brings all together—while other groupings bring together representatives of either rich or poor or smaller churches of both—the hard work of restructuring the global economy requires delegation of authority. How this is done—on the basis of regions, functional problems, or economic interests—is less important than a shared commitment to a means of reaching economic decisions that can work for all.

Yet in order to do this, we must preserve the United Nations as a place where all nations have a stake in common effort. All eventually will lose, if this institution is used by any nation, great or small, to advance parochial interests at the expense of a common good. We must preserve what is best in the functional workings of the UN, and not allow it or its specialized agencies to become embroiled in political disputes that will destroy its ability to carry on the vital task we have before us, today.

Second, there are many great problems that we must face, together. But as we begin to rebuild the world economy, we must meet the immediate, staggering needs of the world's poor countries—those most seriously affected by the global economic crisis. For none of us can welcome the future if hundreds of millions of people continue to live on the edge of starvation. Without hope, with no future at all.

My own country has fallen far behind in recent years, in its response to the demands of development. Having launched the first development decade, we left the responsibility for fulfilling its goals to others, as we turned our attention elsewhere. Together, we must make a serious and sustained effort to help the worst-off nations and the worst-off peoples within each nation. Together, we must support the fourth IDA replenishment, and other multilateral aid efforts. Not just the traditionally rich countries are challenged to help; so too are those with new-found economic wealth, new-found ability to meet the needs of developing countries. And political leaders in all countries—mine and yours—are challenged to meet squarely the problems of social justice at home as well as abroad.

In meeting the needs of the world's poorest nations, there are many tools, both old and new—in aid, in expanding opportunities for trade, in a fairer distribution of special drawing rights, in concessional sales of oil and food to those countries most in need.

The World Food Conference in Rome stands out as a major creative effort—starting us on the way to a period of constructive economic effort to rival the late 1940s. In my own country, we must support what was done at Rome by making a basic commitment to provide a major share of our own food abundance to those nations most in need. The time is past when embargoes on the sale of commodities—in food or other raw materials—are acceptable to the effective and fair working of the global economy. And in the United States we must see that political purposes do not deflect our food aid from these peoples most in need.

US efforts in food must be combined with those of other nations following the Rome Conference. We all need to create a world food reserve; to take steps that can insure greater stability of food prices, while providing both adequate cereal supplies and a fair return to producers; and to support the International Agricultural Development Fund proposed at Rome, along with its efforts to increase world food production. There is little value in food aid, if developing countries are not thereby sustained and encouraged to expand their own production, to grow most of the half-billion tons of extra food a year the world will need in 1985. There is little value in food aid, if efforts are not made to help as many poor countries as possible gain greater self-sufficiency in food, while great tracts of arable land lie fallow and yields are unnecessarily low.

Third, the commitment to rapid economic development for the world's poor countries—as a shared goal and responsibility of every nation—must also meet the age-old issue of commodity prices. For too many countries, fluctuating prices of agricultural commodities and industrial raw materials spell boom one year and bust the next—and make it more difficult for these nations to plan their economic futures. For consumers, as well, such fluctuations have meant rising inflation, the discouraging of long-term investment and expansion of raw material supplies and the destabilizing of their own economies. The time has come for consuming and producing countries to make greater efforts to bring more stability to commodity markets—through actions in those areas where concrete progress is possible, and where the interests of all countries can be served.

This is a critical issue as we meet today. Only a few weeks ago, a preparatory conference convened in Paris to bring oil producers and consumers together broke down in disagreement. The industrial consumers wished the conference to be centered on problems of oil. The producers and other developing countries wished the negotiations to devote equal attention to other commodities and development issues. There were legitimate arguments on both sides; but paralysis is no solution.

The commitment must be there to examine all the issues seriously, and reach results soon. For our part in the oil-consuming countries, we must now accept that there is merit in the effort to see the problems of commodities and of finished goods as part of the same larger problem.

I also hope that the oil producers—and other nations concerned with the relative prices of goods—will recognize that real solutions to real problems cannot be found in a single conference, a single grand design. I therefore believe that we should seek, through a series of forums, to understand the issues . . . the competing interests . . . the demands of equity and justice. We should seek to solve global energy problems, as we have together worked to meet the next decade's needs in food. We should all make use of the forthcoming Seventh Special General Assembly on Development, as well as other forums concerned with individual commodities. Tomorrow, I shall introduce a Senate Resolution urging constructive U.S. efforts at the Special General Assembly.

Only by committing ourselves to serious negotiations and accommodation can we hope to succeed in this vital task. Only by progressively relating each part to the whole can we hope to emerge with new approaches that can be sustained . . . that will meet the interests and the needs of all.

This effort is now new. As long ago as 1942, the Great British Economist, Lord Keynes, proposed an international commodity organization to be part of the new institutions then being built. He asked then: "Is not centralized international action capable of effecting a vast improvement of the system?" Today, we are reaching the time when we can confidently answer: "It is, and we will find the way."

Fourth, there are many other aspects of the world economy that must be reappraised, as we seek new economic agreement. One concerns the operations of the multinational corporations. Their investments—their trade—have reached staggering size, and brought in their wake new frictions and new misunderstandings among nations—along with great economic achievements and promise of support for modernization and industrialization.

A way can and must be found to regulate relations between multinational firms and the countries in which they act. The United Nations has made serious efforts to improve understanding of this problem.

The time has now come for creating both a real dialogue on this issue, and a means of surveillance over the multinational firms. It must be an effort to meet the interests of firms, home governments, and host countries alike—an effort to ease political tensions without destroying real economic possibilities. This may not be easy to achieve. Yet if we use the methods I have proposed here—in a broader sharing of economic decision-making, in meeting each new difficulty in its own terms but in relationship to the whole—I am confident we can succeed.

We can build constructive relations, and reduce potential conflict, by agreeing on rules of conduct for multinational firms, and for the role of foreign investment in general.

At the same time, we should seek to provide greater international support to foreign investment, in ways that will lead to denationalizing investment itself. Among other benefits, this approach can help to ensure that needed investments will be made in raw materials—in all parts of the world—both to provide maximum benefits to raw material products, and to avoid critical shortages.

We need to build upon the new oil facility of the IMF to channel oil revenues to where they are most needed. We need cooperation of both oil consumers and producers in meeting the shared problem of recycling. And we need to support a third window at the World Bank—to provide loans on intermediate terms.

There are other proposals before these institutions that deserve support, including a strong contribution by the United States. All these efforts can be in the interests of rich and poor countries alike, by increasing economic stability, placing funds where they are most needed, and providing new energies for economic growth and development.

Today, I have spoken of some of the elements that must be present in new economic negotiations among nations—in the search for new global economic compact—in the restructuring of the economic system for the benefit of all. The task will not be easy; sources of tension and discord will not quickly disappear; no nation will gain all that it wants; there will continue to be competing interests that cannot be resolved. But if the commitment and the will are there—on the part of both rich and poor—we can hope for an economics of plenty that will also be an economics of social justice.

Most important, we must remember our most basic concern, here, today—the 3 billion people who inhabit the earth. For at heart the global economy is about people—about their lives, their hopes, their aspirations, and their basic human need to live without want or fear.

For the first time in history, we have the resources and the knowledge to move towards the age-old goal of decent lives for all mankind. We may not get there in this generation or even the next; we will still face new challenges to our will and our ingenuity that

we have not even envisioned. But if we can at least understand what is demanded of us—if we can understand and respond to new needs, and new facts of economic life—at least we can begin to move towards a new global economic compact to ensure increased opportunity and a better life for everyone.

As Secretary General Waldheim has said:

". . . we shall only succeed if we continue, despite all obstacles and frustrations, to believe that those goals are attainable, and to work towards them with all our convictions and understanding."

And in that conviction and understanding of what is attainable—and in our knowledge of what is right and just—we can all work and prosper together.

[From the Wall Street Journal, Apr. 24, 1975]

OVERFLIGHT

(By Alan L. Otten)

WASHINGTON.—Wall Street Journal readers will probably find bizzare the image of Senator Edward Kennedy crusading for less government regulation and more marketplace competition.

Yet that's precisely what Mr. Kennedy has been doing, with considerable impact and success, in the airline field. In the process, he's also been graphically demonstrating the enormous potential of welldone legislative oversight.

Oversight, as has been frequently noted here, is a conspicuously neglected congressional chore. Trying to determine whether a government program is working well, or is working as Congress intended, is tedious labor. Frequently, the committee charged with oversight is stacked with lawmakers who have close ties to the people administering the program or benefitting from it. Unless it hits scandal or other publicity-rich pay dirt, tough oversight gains an ambitious legislator far fewer friends than most other things he could be doing.

All the more surprising then that Mr. Kennedy should invest substantial amounts of time and energy in this sort of activity. Yet last summer, looking around for a new task for his Judiciary Subcommittee on Administrative Practice, he worked out with Harvard law professor Stephen Breyer plans to study the way different government agencies now regulate economic activity—starting with the Civil Aeronautics Board.

"For a long time," Mr. Kennedy says, "I'd been working on getting better air service and lower fares for New England. And I'd gradually become convinced that less regulation would actually benefit the consumer and still strengthen the industry."

Since last Summer, Mr. Kennedy, ranking subcommittee Republican Strom Thurmond, and the subcommittee staff have bombarded CAB members and their top aides—with detailed questionnaires, private staff discussions, specially commissioned academic analyses, and beginning in early February, public hearings.

How could intrastate airlines in Texas and California, free from federal regulation, manage to charge much lower fares and still operate so profitably? Why does the board freeze out major new competition from airline routes? Wouldn't the threat of new competition help keep down airlines fares?

Even if lower fares made airlines cut back service, might not people accept less service in order to fly more cheaply? Why does the CAB rate formula include a fat 12 percent rate of return? How could the board justify higher fares at a time of sharply slumping traffic?

And CAB policies changed. Recently the board has begun to entertain new route applications; dropped an earlier plan to force higher charter rates and instead proposed more low-cost charter flights; permitted a no-frills, low fare for National Airlines; and set up an internal group to consider the desirability of broader competition.

"Much of this never would have been proposed, let alone approved, six months ago," contends antitrust expert Breyer.

Certainly there may be some argument over just why it's all happening now. The recent recession, cutting into passenger volume and industry profits, made many airlines ready to compete harder. Key officials at the Council of Economic Advisers and the Departments of Justice and Transportation were independently moving towards a deregulation policy anyhow, and President Ford promised this in his economic report in early February.

Yet at the very least the Kennedy subcommittee catalyzed these and other forces. Its announcements of plans to start hearings Feb. 6 prodded the administration to pull a policy together by then. Several CAB reversals of direction were actually announced at the hearings, under specific subcommittee questioning.

In addition to the "why now?" question, there's the even greater debate over whether deregulation is the correct policy. Most airlines say emphatically not, and the CAB so far has seemed to agree.

Industry executives admit that less regulation may lower fares at first, but insist that profits will also gradually drop, airlines will have to merge or fold, small towns will lose service, technological innovation will slow, and safety standards will suffer. Ultimately, they contend, fares will rise higher than ever.

But the judiciary subcommittee and apparently the Ford Administration believe the contrary. "Testimony by independent experts and other witnesses," Sen. Kennedy said in hailing a new Ford deregulation pledge last week, "indicated that a more flexible regulatory policy, one that leads to greater competition, is likely to lead to lower fares and fewer empty seats"—and sounder airlines.

The subcommittee's report, now in preparation, will probably urge far easier airline qualification for new routes, still more liberal charter rules, freedom for airlines to raise or lower fares within a specified range without CAB approval, and several restrictions on the board's power to grant antitrust immunity for airline agreements reducing frequency of flights.

Mr. Ford has indicated the administration's bill will be along much the same lines, and the subcommittee is pleased. "A lot can be done by the board without legislation," Mr. Breyer says, "but then there's the risk of a relapse later. It's safer to have legislation." He admits, though, it may be hard to sell the current liberal Congress on the deregulation approach. "Liberals don't have a bias against government regulation," he understates.

To be sure, the Kennedy operation has had some luck. The Senator's name commands press attention even for dull subjects. Watergate created doubts about too-close government-industry ties. The declining economy heightened interest in the health of the airlines. "We caught the issue at the right time," Mr. Kennedy concedes.

Yet the investigation also required long, hard work, as good oversight always must. And it showed that with hard work—and a little bit of luck—oversight can do a vital job.

TRIBUTE TO INDUSTRY

(Address of Senator EDWARD M. KENNEDY to the Chamber of Commerce, Fall River, Mass., January 8, 1973)

Congresswoman Heckler, Mayor Driscoll, Mr. Donovan, Mr. Dator, distinguished guests, ladies and gentlemen. I want to thank the Fall River Chamber of Commerce for bringing us together tonight. I am honored to be with you and especially pleased to take part in this Tribute to Industry.

For it is industry on which our past material progress has been based, and industry which has taken the lead in the revival of the Fall River area over the last decade. After 150 years of reliance on the textile industry, Fall River suffered heavily from 1930 to 1960 when the mills closed and the ranks of the unemployed swelled.

In the 1960's the tide turned, industry began to revive and diversify, and the entire Fall River area experienced an economic resurgence. Along with the traditional garment industry, your new Industrial Park has brought a variety of firms in fields like foam rubber, light fixtures, kitchen cabinets, paper tubing, computer paper processing, key punching, and other diversified fields.

The total renovation of your downtown area promises to place Fall River in the forefront of urban renewal throughout the nation. Building your City Hall over a highway is probably one of the most ingenious approaches yet devised. For it not only saves valuable space, it assures that the city fathers will be fully atuned to the problems of automobile noise and air pollution.

But as recent events show, the economic battle is far from won. The figures just released show the Fall River area with a jump of 1.2% in unemployment to a total of 6.2%—which is 1% above the national figure. Adjusting to the closing of the Firestone plant, which employed 1500 at its peak, is not an easy matter.

But easy or not, the nation must find a way to reduce persistent unemployment and let all of our citizens share in the prosperity which modern technology now makes possible. The problem is not with our resources or our technical knowhow, but with inadequate policies at the Federal and State level to enable municipalities like Fall River to realize their full potential. Just as you're renovating your City Hall, we need to renovate our policies for manpower, productivity, research, innovation, and industrial incentives.

Inadequate national policies have led to distortions throughout our economy which hurt all of us—the businessman, the white collar and blue collar worker, the consumer, and even the government official who must answer for inadequate public services.

Consider the growing problem of worker alienation—the listless dissatisfaction with their work which prevails among so many of our workers. The problem is not just one of their psychological repudiation of their work.

Their alienation is expressed in their growing dependence on drugs, with all the health and crime problems that follow—in their increased absenteeism, with its adverse impact on productivity and in their inattention to their work, thereby lessening the quality of products and services.

The irony of this situation is that today for the first time in history we have the knowhow and flexibility to redesign our plants and offices and reshape our work patterns. And to reshape them in a way that responds to the human needs of the worker, at the same time that it increases productivity and enhances the quality of the end product. But we have not put our knowhow to work on the problem of job alienation.

Few people in American have ever heard of Lordstown, where auto workers have tied up the lines more than once to protest the robotlike monotony of a 36 second interval assembly process.

Few of us can understand why a worker recently went berserk in the Eldon axle plant in Detroit and shot three foremen. His defense was insanity, brought about by working in the noise and filth and danger of that plant. The judge and jury visited the plant and their verdict was unanimous. It was a verdict for acquittal.

That is the extreme. But how many men

and women unnecessarily suffer mental or physical illnesses whose cause it linked to their jobs? What is the extent of use of drugs and alcoholism among young workers? How many men and women could function more effectively as parents and citizens if they did not feel dissatisfied with their jobs?

Equally important for the economic vitality of the Nation is the effect of worker discontent on productivity. The National Commission on Productivity states that in at least one major industry, absenteeism increased by 50 percent, worker turnover by 70 percent, worker grievances by 38 percent, and disciplinary layoffs by 44 percent in a period of 5 years. How much does that cost the economy in lost time, in retraining new workers, in lower productivity?

It is clear that worker alienation affects not only the worker and his immediate family, but the businessman and the consumer as well. Solving this problem is to the benefit of all of us.

Last August I introduced the Worker Alienation Research and Technical Assistance Act. The bill provides for research into worker alienation and for technical assistance to those attempting to do something about it. We weren't able to complete action on it in the last Congress, but I intend to re-introduce it shortly and to press for prompt enactment.

The same kind of economic distortion inhibits technical innovation in industry. We have national economic policies which subsidize and protect large corporate interests, but don't provide adequate help for the medium and small businesses which are the mainstay of the nation.

We provide hundreds of millions of dollars of backing for loans to Lockheed—to bail out inefficient management—but don't provide adequate funding to the Small Business Administration. We give vast depletion allowances to support the inflated profits of the oil industry, but who worries about the depletion of plant and equipment faced by the small businessman whose profit margins are too narrow to replenish his facilities?

And finally last week we encountered the most flagrant instance of such distortion when the Defense Department purchased preferred stock in an ailing aerospace contractor to provide him with increased working capital. Can anyone believe that the free enterprise system is furthered by Federal purchase of stock in selected corporations?

The absurdity of this is clear when one examines the significant role played by smaller enterprises in technical innovation. Economists now generally recognize that technical innovation is the crucial stimulus to economic growth.

Now the key to technical innovation is the creative matching of new scientific capabilities with economic opportunity and social needs. This has best been performed over the years by imaginative individuals and small firms, not by the giant corporations.

Thus out of 61 important innovations throughout the 20th century, over half stemmed from independent inventors or small firms.

Two thirds of the major inventions from 1946 to 1955 resulted from independent investors and small companies.

Large corporations have accounted for only one in seven of the important inventions in the aluminum industry.

Of 13 major innovations in the U.S. steel industry, four came from Europe, seven came from independent inventors, and none came from inventions by American steel corporations.

And all seven of the major inventions in the petroleum refining industry have been made by independent inventors.

We need national policies which provide small technical firms with an economic environment conducive to innovation. This means adequate supplies of venture capital. The ability to carry forward tax losses long enough to prove out innovations. Special licensing arrangements which enable such firms to bring non-patentable innovations to a point at which they could compete fairly with large corporations. Special incentives to attract and retain top executive and technical talent. And other such measures which recognize the creative potential of small technical firms and enable them to play a key role in revitalizing the economy.

The same distortion in our economy is seen in space and defense versus civilian industry. Engineers can propel nuclear ships around the globe with the energy from a bucketfull of fuel—yet our cities are increasingly beset with power blackouts and brownouts.

We can cruise on the moon's surface—yet we can't commute from suburb to city without traffic jams, air pollution, and no parking at our destination. We can build beautiful, enclosed shopping malls in the suburbs—yet we can't begin to cope with the housing crisis in the cities. We can design high-speed computers to process billions of bits of data instantly—yet we can't teach all our children to read effectively.

Why is it that cities have to be put on pollution alert, so that mothers have to be concerned about their children playing out of doors? Why is it that household appliances continually break down and that their repair is not only costly but often unreliable?

Why is it that thousands of American children burn to death each year because they wear highly flammable fabrics? Why is it that decent housing is increasingly out of reach of more and more of our citizens? Why is it that millions of Americans are undernourished in an age of affluence? Why is it that there are only kidney dialysis facilities for two thousand of our citizens when fifty thousand need such care?

Why is it that we haven't been able to use modern technology to reduce the mounting costs of educating our children?

We know that computer aided diagnosis, computer monitoring of serious hospital cases, and technological aids to emergency medical care can save thousands of lives each year—yet why is it that we don't make wider use of these devices?

The list is endless, but the lesson is clear. The potential of science is nowhere being matched by its performance. We have the technical knowledge, but we haven't made the concerted effort necessary to put it to use for the benefit of all our people.

As Shakespeare so aptly put it: "The fault lies not in our stars, but in ourselves." The nation's scientists and engineers have the skills, the imagination, and the inventive ability to tackle and solve these problems. But we have let them down. We have not given them the go-ahead; we have not provided them with the support and resources to do the job.

We are all aware that productivity in American industry has been lagging in recent years, especially in comparison to Japan and Western Europe. Yet how many realize that part of the answer for this lies in American underinvestment in civilian research and technology? A Department of Commerce study shows that Western Europe, when its gross national product is only one third of the U.S. GNP, has a third more technical personnel employed in civilian research. And Japan, with only half the population of the U.S. and one-seventh of our GNP, had 70 percent as many scientists and technical personnel employed in civilian research and development.

If we make the necessary national commitment to tackle these problems, if we provide the nation's scientists and engineers with the wherewithal to do the job, I am confident they can solve many of these problems and make a giant step forward on earth toward making this the kind of society we want for our children, and their children to come.

Yet at this time of maximum need—when the nation's problems with the environment, with health, with economic productivity and with the quality of life in our society—when these problems need to be tackled with all the talent we can muster, we find technical unemployment higher than it has ever been in history. Last year, of the nation's approximately three million scientists, engineers, and technicians, from five to ten percent were either unemployed or seriously underemployed.

This situation is intolerable. America's strength springs from the skill of its people. Scientists and engineers have a major share of those skills. The nation must assure them the opportunity to use their skills for the benefit of all of us.

Last August the Senate passed a bill I had introduced directed at meeting that goal. Unfortunately the House of Representatives was not able to complete action on it before Congress adjourned. But I re-introduced it last week and intend to press for its enactment into law this year.

This bill, the National Science Policy and Priorities Act, would put $1.8 billion into civilian research and engineering aimed at meeting human needs. It sets up a new program like the Space agency; but instead of moving men to the moon, it would focus on our communities here at home.

The new program would provide 400,000 jobs throughout the nation, about 25,000 of them in Massachusetts. In addition, it would create a host of new products, services, and industries; help increase productivity; revitalize the civilian economy; and strengthen the nation's international competitive position.

I believe this program can become the dramatic focus for science in the decade of the Seventies, in much the same way as the Space Program did in the Sixties. But the results will be of direct benefit to all our citizens here and now—not at some future date.

Before this decade is up, let the nation's engineers design and demonstrate a totally new community—a citizens' community, which shows us what is possible for all Americans in all communities. Clean air and clean water—rapid, reliable, and even comfortable mass transit—computerized health services and educational systems available to all hospitals, clinics, and schools—underground utilities which can be repaired and expanded without ripping up the streets—public safety systems which use modern technology to assure safe streets and safe homes.

This is the goal for technology in our time. This is the way to create jobs, revitalize the economy, and help revive the national spirit.

Another economic distortion stems from the dichotomy between energy and the environment. At a time when our energy needs are increasing by leaps and bounds, we find that our methods of producing and using energy contribute to environmental degradation and pollution.

And we find ourselves in an artificial shortage situation where thousands of homeowners in the mid-west are on the verge of being without heat and electricity, at the same time that our import quotas restrict the flow of fuel from abroad and inflate fuel prices to the American consumer.

The energy crisis is due to inadequate national policies. We have enough energy resources and enough resources are available abroad to meet all our needs for years to come; and we have the basic scientific knowledge to meet our future needs for centuries to come.

But we do not have adequate national planning to manage the disposition of our current resources to avoid shortages and prevent pollution. And we do not have oil import and pricing policies designed to assure an adequate flow of fuel from abroad. And we do not have adequate research pro-

grams to assure environmentally and economically sound energy resources for the future.

The irony of this situation is that for the first time in history modern science has given man the power of unlimited sources of energy. The development of controlled nuclear fusion holds forth the prospect of unlimited supplies of energy. And even if fusion power doesn't prove as environmentally sound as scientists predict, the development of economically feasible solar power is only a matter of time if we apply our technical talent to the problem.

Once we can draw directly on the energy of the sun to provide our power needs, energy will become as free and bountiful as fresh air and water once were to our forebearers. Once again, the problem is not one of technical know how, but of national policy to make the benefits of technology available to our citizens.

We live in a world increasingly shaped by man, with technology as the principal tool for shaping it. But technology is a two edged sword: with every new capability come new problems; and with every problem come new opportunities.

As a nation, we have to find better ways of anticipating the problems, and exploiting the opportunities. The Congress has recently taken a major step in this direction by passing a bill I sponsored to establish an Office of Technology Assessment. The new Office will provide Congress with the necessary technical expertise to make the nation's technology programs responsive to our needs.

It will examine proposals of new technology programs and assess their probable impact on the economy, on the environment, on society in general, and on individual human values.

For example, how would the Supersonic Transport—the SST—affect our environment and benefit our economy? What is the economic and scientific value of the Space Shuttle and how do its benefits compare to unmanned space exploration and other non-space research programs? How do we balance the advantages and disadvantages of pesticides and chemical additives to food and drugs? How do we assess the impact of computerized data banks on the privacy of the individual?

It is doubtful that an Office of Technology Assessment at the turn of the century could have foreseen the extent of automobile pollution in the 1970's. But such an Office hopefully would have alerted the Congress to the problem much earlier than was the case. If the problem had been clearly presented to Congress in the late 1940's, for example, it's possible that national transportation policy may have been significantly different over the intervening decades. The public roads program may have been handled differently, and much more intensive research would have been directed toward alternative transportation systems, such as urban mass transit or electric cars.

Another example is the expected proliferation of microwave systems for us in homes, automobiles, and boats. This will lead to car telephones becoming as common as car radios are today, to automotive radar systems which avert collisions or automatically inflate air bags when they are about to occur, and to a host of other applications.

Now scientists have shown that microwave radiation can be harmful to living organisms, but there is uncertainty over the levels of radiation required to produce significant effects.

The time to find answers to these questions is now, not after individual microwave devices pervade our economy. The purpose is not to prevent new developments of this sort from occurring, but to assure that they are channeled so as to achieve the maximum benefit for society.

An example of particular importance to Massachusetts is the anticipated use of large tankers to bring natural gas in from the middle east. Boston harbor would be a likely entry point for such vessels, which would be highly explosive. If an accident were to occur it could result in enormous economic and environmental damage, not to mention the possibility of loss of life and injury to people in the vicinity.

Natural gas is an environmentally desirable source of energy; and the economics of this approach might prove attractive. But these factors have to be weighed against the risks involved and compared with the benefits and problems associated with alternative energy sources.

This is what our new Office of Technology Assessment will do. As Chairman of the Congressional Technology Assessment Board, I intend to make this Office a vital force for maximizing the benefits of technology to all our citizens. It will not be used to stifle technology development, but to promote technology in the public interest.

Industry will be a principal beneficiary of technology assessment. Because it will promote technology of benefit to the society, with attendant profits for industry. And it will help industry avoid the mis-development of technology in ways that may lead to later dismantling of facilities at great loss of investment.

The point is that we have the technical knowhow to build the kind of world we want. What we need are wise policies and the will to implement them.

We need a partnership in progress between business and labor; between Federal, State and local governments; between the engineer and the environmentalists; and even between the Congress and the Executive Branch.

When a landmark law is enacted over the President's veto to provide billions of dollars for the elimination of water pollution throughout the nation, we need an Executive Branch that will not impound these desperately needed funds because of short-sighted economic policy.

I understand that last week the Fall River City Council rejected the bus company's application for an $81,000 subsidy, and that as a result 100,000 people in your area are without public transportation.

I don't presume to comment on the merits of that dispute. But I do believe that the situation could have been averted if we had the proper planning and partnership between Federal, State, and local government, and between industry, labor, and the consumer.

In recent years a cynicism has spread throughout the country a belief that all segments of society are at odds with one another—that each group is out for its own self-interest at the expense of others.

There is no doubt that our society is made up of many divergent groups with a variety of interests. But the genius of American democracy has always been the welding together of all these interests for the common good.

The cynical acceptance of conflicting interests, without the compensating factor of cooperation toward common objectives is a national disgrace. I for one cannot accept it, and I know the American people will not long accept it either.

And I'm confident the members of this audience—the business leaders of the Fall River community—will not accept that cynical approach. What you have done for Fall River in recent years demonstrates your dedication to the public good.

And I know the business community of the nation will not accept that cynicism, but will recognize its common interest with labor, the consumer, the environmentalist, and even the government official. The extensive movement toward public responsibility in business firms in recent years attests to this fact.

For the old business adage is as true as ever—what's good for the customer is good for us.

I am proud to join in the Tribute to Industry tonight. I commend you for what you have accomplished to date. And I look forward with confidence to your future achievements.

Thank you.

ADDRESS BY SENATOR EDWARD M. KENNEDY BEFORE THE ECONOMIC CLUB OF DETROIT, APRIL 8, 1969

I appreciate this opportunity to meet with you today to exchange views on public policy, and to discuss the interests we all have as Americans in a vigorous and growing economy. This Club is known throughout the United States as a forum for discussion of national affairs, and this city is looked upon as an important hub of American industry. It is a city that creates great products and hundreds of thousands of jobs—yet a city, like many in America, with its problems, its crises, and its hopes.

Although much has been accomplished in Detroit, much remains to be done. The work of the New Detroit Committee in housing and job training, in youth recreation and cultural affairs, and in bridging the often deep divisions within a large community, has given leadership in our national effort.

So too, the industry of Detroit has, through its drive and competence, provided economic leadership for the nation in meeting its urban problems. And the leadership given this country by many members of this Club is a clear example of the primacy of Detroit in turning industrial skills to the solution of national problems.

In times past, agriculture and industry, industry and labor, business and government have seemed to be in bitter clash with one another. That time is gone forever. We have reached the point in our national development where business prospers only when our country is strong and gaining strength, for we are one nation with common goals and a common destiny. Whether it is under Democrats or Republicans, there is common agreement about the ingredients of a sound economy and stable society. The political parties no longer align themselves with one segment of the economy against another. Each segment of the economy has a role to play for the benefit of all.

All of us who hold leadership positions in the Congress recognize that business is an important force driving the economy up and ahead, and that the health of American business is essential to the health of the nation. We have also learned that the Federal Government can play a constructive role in assuring steady economic growth, in creating a favorable climate for business investment and wage earner prosperity. And it can do so in a way that does not replace government judgment for business judgment, within the framework of our accepted traditions and laws.

We can all agree that crime and hunger, poverty, segregation, and riots are not good business. Opportunity is. It is true today, as it was when the immigrants came from Europe, that by creating jobs we reduce the burden of welfare, we reduce the incidence of civil disorder, and we reduce the toll of crime. We have learned that social justice is not just a national necessity, it is also sound economics.

Over the past decade, we have made real strides in achieving social justice. Not all our efforts have been successful. And over the past decade we have learned much about achieving sound economic growth. This too has been less than fully successful.

And so today, one of the most significant issues facing this current session of the 91st Congress is the need for prompt fiscal action to combat the strong inflationary pressures now gripping our economy. The facts of infla-

tion are obvious. Given the high growth rate of the economy, the rising prices and interest rates, and the severe budget impact of the Vietnam War, it is clear that our government has a responsibility to act, and to act promptly. I therefore commend the Administration for the recent announcement of its decision to seek an extension of the 10 per cent surcharge originally imposed last year.

At the same time, as you may know, there is strong feeling in Congress and elsewhere that extension of the surcharge should be accompanied by substantial Federal tax reform. Indeed, in a number of discussions in recent weeks, I have found that the concern for tax reform has been heightened significantly by the current debate over the surcharge. As a matter of sound economic policy, the issues are closely intertwined.

In recent years, as the use of the tax surcharge reveals, we have achieved a new degree of sophistication in the role of the government in insuring economic stability and growth. The bold principles of the "new economics" have now achieved broad and nonpartisan public acceptance. Throughout our economic history, the nation suffered chronic periods of inadequate growth, prolonged high levels of unemployment, and repeated recessions. Our economic policy was primarily a response to emergency. Now, by contrast, we have begun to act on the principle that the tools of economic policy are most valuable when the economy is not threatened by crisis, that they are best used as preventive medicine to maintain the good health of the economy.

The practical benefits flowing from application of these principles have become obvious. For eight years, we have enjoyed a period of unprecedented and uninterrupted economic growth that has brought enormous prosperity to millions of Americans. Today, a responsive fiscal policy and a flexible monetary policy are widely accepted as the twin pillars of effective management for our modern, dynamic economy.

The lesson now is clear. The use of our tax system in a responsive fiscal policy is a two way street. If we are quick to support tax reduction when needed to stimulate the economy—we must be willing to accept the burden of higher taxes when necessary to combat inflation.

But it must also be clear that public acceptance of the tax system as a device for orderly economic growth depends upon the faith of the public in the fairness of the system itself.

The fundamental logic of the surcharge demands that it be coupled with tax reform. Indeed, the fair and effective operation of our tax system is vital to our entire competitive free enterprise system, and therefore to our democratic society. If we permit unreasonable tax advantages to divert resources away from their best use, we distort our profit system and lose many of the benefits of the free market.

The time is now ripe to enact substantial tax reforms. Extensive progress has already been made by the Ways and Means Committee of the House of Representatives, and the Administration will soon submit its own proposals for reform. I believe that at least a first step toward basic tax reform should be made a part of any law extending the surcharge. By taking such action, we gain a double benefit. We insure that the surcharge falls more evenly on all our citizens, and we lay the groundwork for comprehensive tax reform to insure the most efficient allocation of all the resources in our society.

To the extent we generate new revenues from tax reform, funds can be made available for other important programs. Or, if the proper timing can be worked out, the revenues gained from tax reforms could be used to provide a meaningful reduction—perhaps one or even two percentage points—in the surcharge rate for individuals.

But the adoption of basic tax reforms is not enough. We must also be sure that the tax dollar is not spent by our government in programs that are wasteful, inefficient or unnecessary.

Traditionally, Congress has put the cost of non-defense domestic programs under the most intense scrutiny, analyzing both the need for the programs themselves and the need for funding them at requested levels. It is these domestic programs that annually bear the brunt of the drive to reduce Federal spending. It is these programs that were particularly hard hit by the spending cut required by the Revenue and Expenditure Control Act last year.

Let me give you three examples: in 1968, Congress passed the Juvenile Delinquency Prevention and Control Act, and authorized appropriations of $25 million for fiscal year 1969. Recognizing the need for budget austerity, the President requested funds of $19 million under the Act, but Congress appropriated only $5 million, or one-fifth of the amount originally authorized. In the new subsidized college housing program, Congress authorized $10 million—but appropriated only $3 million. For the program for educationally deprived children, Congress authorized $2.7 billion—but appropriated only $1.1 billion.

The list of underfunded domestic programs is long. All too clearly, it demonstrates that in the effort to restrict Federal expenditures, to help bring order into our fiscal and monetary disorder, Congress has tended to focus primarily on our domestic social programs. By contrast, Congress has not, as a rule, given the same sharp scrutiny to programs of the Department of Defense.

No member of Congress seriously questions our need for a sound national defense, for an effective and modern military establishment. No one can question our need for continuing research and development programs to constantly upgrade our security.

Too often, however, it has been the practice in Congress to accept on faith the recommendations of the Pentagon. Indeed, because our national security is of such vital importance, it has been considered almost unpatriotic to question defense recommendations. Yet, today many of us in Congress—and many leaders of industry and commerce—are increasingly concerned about the effectiveness, the efficiency, and the economy of our defense spending. Many of us believe that it is time to begin to give the same intense examination to Pentagon programs we regularly give to our domestic social programs. Business Week magazine put it well, I think, in its editorial of April 5, entitled "The Pentagon's Costly Mistake":

"There is no more important problem for President Nixon and the Congress than to establish adequate supervision and control of Defense Department programs, without hampering operations of the agency. The Pentagon as well as powerful companies will fight any attempt to curb their activities. But a method to check the proliferation of unnecessary and unsound military programs must be found. The alternative is sure disaster."

The Defense budget for the current fiscal year totals some $80 billion, nearly three times the total amount of all corporate income taxes paid to the Federal Government in 1968. The defense budget supports a uniformed armed force of over 3 million men, and a civilian employment of almost 1.5 million. We have 6,000 military bases in the United States, and over 400 bases abroad. The defense budget provides direct employment for 10 per cent of the United States work force. And it permits a return on net worth for defense contractors of 18 percent, as opposed to a return of only 11 percent for comparable civilian plants.

Senator Stuart Symington, a former Secretary of the Air Force, recently pointed out that we have spent over $23 billion on missile systems deployed and then abandoned. We have been told in Congress that the cost overruns on the C–5A, the world's largest aircraft, will run to something like $2 billion, or more than the yearly budget for the entire poverty program. A recent detailed examination of 13 major aircraft and missile programs, all with sophisticated electronic systems, revealed these astonishing results:

Only four of the programs, totaling $5 billion, could be relied upon to perform at more than 75 percent of their specifications;

Five, costing $13 billion, failed 25 percent more often than promised;

Two, costing $10 billion were dropped within three years because of low reliability; and

Two, after an outlay of $2 billion, were dropped outright because they performed so ineffectively.

This same study revealed that complex electronic systems generally cost 200 to 300 per cent more than the Pentagon predicts, and are generally delivered to the military two years later than promised.

This is not the time or place to cite the full range of such cases that even preliminary examination has discovered. But I think the examples reveal enough to indicate why so many persons share the concern of the editors of Business Week, members of Congress, and others around the nation for adequate supervision of our military programs.

There is no reason in logic or national security that defense programs should be above the careful review accorded to all other Federal programs. We in the Congress cannot abrogate our responsibilities to carry out such a review. The analogy is often made between the Congress and a corporate board of directors. The board, responsible to its stockholders, must review the proposals and budgets of the corporation's various operating divisions, balancing the projected income and expenses within the divisions against those of the corporation as a whole. While this analogy is not exact, it is, I think, apt, for we in the Congress seek many of the same goals—efficiency and effectiveness in operations, economy in performance, and consistency with the priorities we have established for other basic national programs.

There is thus a great similarity between the questions we in Congress are asking and the questions you ask as leaders of industry when you deal with a proposal for an expensive new program: Is it needed? Will it work? How much will it cost? How will the competition respond? Is this the wisest allocation of the company's scarce resources? You ask these questions because you are spending your investors' money. We ask these questions because we are spending your money.

Today there is one Pentagon program that is receiving the scrutiny usually reserved for domestic programs: the proposal by the President to deploy an anti-ballistic missile system. Originally, we learned of this program as the Nike-X; later its name was changed to Sentinel; now it is called Safeguard. But the concept of the ABM system—by whatever title it is known—is basically the same. Its name has been changed to make it more acceptable. But the only major change is the cost, which goes steadily upward as the program is juggled.

The questions being asked in Congress and across the country about the ABM system are many and diverse. But their common theme is clear: Is this the right weapons system, at the right time?

The Secretary of Defense has put forward a number of justifications for deployment of an ABM. Many of us in Congress do not find them convincing. Much has been made recently, for example, of the Soviet SS–9 missile. Yet, we first learned of this missile in 1962. Obviously, for almost seven years,

our defense planners had discounted the Soviet missile in developing our own forces. The Secretary of Defense assures us that the Soviet Union is seeking a "first strike" capability; the Secretary of State assures us it is not. Further, the Secretary of Defense has suggested broadly that our Polaris fleet might be vulnerable to attack in the early or mid-1970's. This position flies squarely in the face of strong testimony to the contrary last year by the Chief of Naval Operations and other high ranking naval experts.

It is also claimed that the ABM system would not provoke the Soviets into counter efforts, because the ABM is defensive in nature. Surely this is an historical and logical folly. When the Soviets began to deploy their own ABM system around Moscow—totaling only about 100 missiles—the U.S. promptly responded by accelerating the development of new penetration aids and multiple warheads on our nuclear weapons. At the time, the Pentagon assured the Congress that the Soviet ABM presented no clear or present danger to the U.S.—principally because we had over 1,700 long-range missiles, and needed to launch only 100 of them against Moscow to overwhelm, and thus nullify, the Soviet ABM.

We must also consider what the American reaction would be should the Soviets deploy an ABM system around their own offensive missiles. Would we take no step to counter their move? Or, far more likely, would we consider it absolutely imperative to develop a counter measure of our own?

For these and other reasons, historical and logical, deployment of our ABM system would be highly provocative, and would significantly raise the ante in the arms race. And this is so whether we call the ABM system offensive or defensive, because the inevitable effect of its deployment is to force a positive response from the Soviets.

In addition, a number of the most prominent scientists and engineers in the nation have expressed deep reservations as to whether the ABM system would even function as proposed. It is undeniably the most complex weapons system ever designed. Yet, major components have not yet even been tested. Other components will not reach the prototype stage for years.

Opposition to the deployment of an ABM system is bi-partisan. The debate is only just beginning in Congress. Neither the authorization nor the appropriation bills have reached the floor of the Senate or the House. Consequently, we have ample time to weigh the evidence presented to us. Not all of that evidence is yet available. But before the legislation for the ABM system comes to a vote, we will have considerably more information than we now do.

The candid and responsible discussion now going on in Congress over the ABM system must be brought to the nation at large. Because the ABM system has been put under such intense scrutiny, and because that scrutiny is constantly uncovering new facts, many eminent Americans believe that the downpayment of $7 billion requested for the ABM system will not add at all to our defense, but will give us only false security: false because it may not work; false because it will provoke a new arms race; false because the arguments on its behalf are those not of logic but of fear.

There is a larger lesson in the issues I have discussed. As we know from the past, the divisions of today produce the agreements of tomorrow. The coming debates on the economy, on the surcharge and tax reform, on government spending and the military budget will be difficult and hard-fought. But the crucial question now is how these debates will be approached. If we come to them with candor and fact, if we search for realistic solutions without seeking partisan advantage, if we recognize that these issues are vital to our national interest, then we will insure not only greater public knowledge, but greater public acceptability of the answers we reach. It is a difficult path, but a path we must travel. There is no other path to follow if our system of government is to succeed in meeting the challenge of the Seventies.

IRAN

Mr. MATHIAS. Mr. President, the United States and the American people are being severely tested by the terrible events in Iran. The 49 Americans held hostage in the American Embassy in Tehran, are in Iran as representatives of the American people. When the American Embassy was breached, American soil was violated. When the American hostages were taken, all Americans were brutalized.

The Ayatollah Khomeini has overturned international law. He threatens the lives of innocent people in flagrant violation of the principles of diplomatic immunity. He taunts and insults the President of the United States. For 22 days, despite the pleas of caring people throughout the world, the Ayatollah has encouraged an act of terrorism abhorrent to all civilized people.

At the same time he has suggested that the American people do not support the President in his refusal to give in to blackmail. He has attempted to divide the American people from their government by propaganda and from each other by releasing only female and black hostages.

The time has come to tell the Ayatollah that he is deluded.

Khomeini has badly misjudged the temper and the character of the American people. Never since World War II has this Nation been so unanimous as it now is in its desire to see the hostages freed without giving in to blackmail. The President of the United States has the wholehearted and overwhelming support of the American people in his refusal to bow to terrorism. And it is high time the Ayatollah got his message.

Americans have shown great and commendable restraint in this tragic and difficult situation. It is a proper restraint and it must continue.

But we must also show the Ayatollah unmistakably that he is dealing with a united America.

I have, therefore, today written to the leaders of every professional, fraternal, civic, and interfaith organization in Maryland calling on them to encourage each member of their organization to write or cable Ayatollah Khomeini as witness to this Nation's unity of purpose and its determination to achieve the release of the hostages without succumbling to blackmail. I now urge each Member of the Congress to contact similar organizations in their States so that we may have a truly inspiring outpouring of support for the release of the hostages, a tidal wave of support that will be irresistible.

I ask unanimous consent that a copy of my letter to Maryland organizations outlining this proposal be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR ———: I am writing to enlist your help and the help of every member of your organization in an effort to send a clear unequivocal message to the authorities in Iran that the American people unanimously support President Carter's refusal to give in to blackmail to obtain the release of the 49 American hostages still held in Iran.

The Ayatollah Khomeini has suggested that the American people do not support the President in his efforts to obtain the release of these hostages in accordance with the principles of international law. By his selective release of some hostages, the Ayatollah has attempted to pit American against American and America against its government.

It is urgent, therefore, that we act decisively and in unity to show the Ayatollah that he deludes himself in thinking that Americans are not solidly behind the President and his policies.

All of us share, in some measure, the agony of the hostages and of their relatives, many of whom live in Maryland. In the course of the last 22 terrible days, each of us has asked: What can I do to help? We have restrained hostile acts and demonstrations and we have prayed.

Now there is something more we can do. We can and we must get the message to Iran that the American people—every man, woman, and child among us—demands the release of the hostages.

I, therefore, urge you to encourage each member of your organization to write or cable the Ayatollah Khomeini insisting that the hostages be released and expressing support for a policy of no submission to blackmail. Communications should be sent directly to Ayatollah Khomeini, Qum, Iran, or sent in care of the Iranian Embassy, Washington, D.C. 20008.

I earnestly hope that response to this appeal will be overwhelming and I enclose a copy of a statement I made today in the Senate seeking the support of my colleagues nationwide.

With best wishes,

Sincerely,

CHARLES MCC. MATHIAS, JR.,
U.S. Senator.

Mr. MATHIAS. I thank the Senator from Kansas for yielding time.

Mr. DOLE. I thank the distinguished Senator from Maryland. I think it is an excellent idea that he is proposing and that he has already implemented in the State of Maryland.

LEAVE OF ABSENCE

Mr. JAVITS. Mr. President, I ask unanimous consent that I may have leave of the Senate to be absent tomorrow on official business in Mexico in my capacity as a member of the Foreign Relations Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. JAVITS. Mr. President, I ask unanimous consent that the permission granted for me to be absent this week be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF W. VERNIE REED

Mr. JACKSON. Mr. President, W. Vernie Reed, general secretary-treasurer of the Laborer's International Union, died last month after a lifetime devoted to making the lives of working men and women a little better. Vernie was a native

of my home State of Washington, and a dear friend for many years.

Vernie Reed was born in 1915 in Tacoma, to a large family consisting of seven brothers and sisters. The tragic and untimely death of his father made Vernie a wage earner at a time in life when most of us are mere schoolboys. His working life began as a laborer on one of the early new Deal projects. He was a tunnel miner at Mud Mountain Dam, east of Tacoma, in the Cascade Mountains. During those early years, in the depths of the Great Depression, Vernie devoted his time and efforts to fighting poverty and strife and to make life better for the poor and needy.

His love and compassion for his fellow man led him to the labor movement where he rose quickly through the ranks. He began in the office of Laborers' local 252 in his hometown and then moved successfully through the building trades and onward to the staff and executive board of the Laborer's International Union of North America. In 1975, Vernie became secretary-treasurer of his international union and served with distinction until his death October 5. He will be sorely missed.

Vernie Reed's life was characterized by a love and compassion for people. It dominated all other motives in his work on behalf of the American trade-union movement. His life's work does honor to himself and to his origins. In our home State, Vernie was widely known for his interest and work with young people, as well as for his determination to create a safe working environment for his members. He was active in the politics of Washington State, and served on a number of commissions and councils under the appointment of successive Governors of the State.

My own relationship with Vernie Reed goes back to my first days as a Congressman from the Second District of Washington. I have been honored by his friendship, trust and counsel during all of those years, and I am proud of that honor as of any other that has come my way.

Vernie Reed was always searching and fighting and finding new ways to help the poor and the needy. He was an honest and dedicated man. His life was successful. At a time when some Americans are questioning themselves and the direction of our Nation, they should perhaps look to Vernie Reed whose life could well serve as an inspiration to all Americans.

DAVID WATSON

Mr. HEFLIN. Mr. President, today I have learned the sad news of a great tragedy—a tragedy for the State of Alabama and for each Member of the Senate.

Our friend David Watson, a member of the Senate Democratic Cloakroom staff, was killed late last night in the crash of his small airplane in a mountainous area near Anniston, Ala.

Killed along with David were three other fine young Alabamians—all of whom were returning to Washington after spending the Thanksgiving Day holiday with their families in Alabama.

David was a person of great accomplishment for his young age and in his short 19 years he earned the respect, admiration, gratitude, and friendship of all of those present in this Chamber.

David was the son of an ordained Baptist minister, Rev. Abraham Watson, who now serves as executive director of the Southwest Mental Health/Mental Retardation Board and of his mother, Mrs. Carolyn Watson, who lives in Monroeville, Ala.

He first came to Washington during his sophomore year in high school as a page for former Alabama Senator JOHN SPARKMAN. Here his talent for making friends easily served him well and as his year as a page ended other Senators, including former Majority Leader Mike Mansfield, made it possible for David to stay in Washington.

David continued as a page and graduated from high school at the Capitol Page School. He stayed in Washington, working in the cloakroom, and was in his second year of studies at the Northern Virginia Community College.

David Watson was intelligent, articulate, gentle, and industrious. He tackled his every endeavor with enthusiasm and good nature and built up quite an impressive record of successes. He was selfless and generous and was quick to give of himself both in his job and in his personal life.

He will be sorely missed by his friends, his colleagues, and by each Member of the Senate. His affability, wit, and easy-going nature earned for him a very special place in the hearts of everyone who knew and loved him.

Mr. President, I express my heartfelt grief over the passing of this fine young man and extend my prayers to his family.

Mr. METZENBAUM. Mr. President, I wish to associate myself with the remarks and the sincere concern of feeling that all of us feel about the loss of this fine young man. I appreciate the Senator from Alabama expressing it so well on behalf of all of us.

Mr. JOHNSTON. I want to associate myself with the remarks the Senator from Ohio made about David Watson.

Mr. RANDOLPH. Mr. President, I think that sometimes we hesitate or are reluctant to speak in this Chamber about the passing of someone who is closely associated and has the confidence of Senators.

David Watson was one of our trusted coworkers. I would not call him so much an employee in the cloakroom—that young man who often was answering the phones. No, I think of him as a gentleman in the very best sense of the word; as one who was diligent and affable as we knew him day by day and into the nights so very often; and as an individual who was very much a part of the operation of the Senate. David was dedicated to the Senate and its vital responsibilities, and always so very cooperative. That was the hallmark of David as I knew him.

I paused today in my own office with no one present and expressed a prayer for this young man who has gone away.

We frankly think often of some young man or woman who has left us—to quote from accounts in an obituary—as having had an untimely death. But I could not feel that way about David because any young or middle-aged person, or older man or woman, when that individual you know is a child of our Creator and believes in Him and lives the life of the spirit as well as of the World, there is no untimely passing.

David Watson is at peace, and God will take care of him.

Mr. LONG. Mr. President, I am very much distressed that David Watson is lost to us. He was one of the most exemplary young men whom I have had the opportunity to know. It was my privilege to designate him as a page. In this position, David did an exceptional job for me.

I had the highest admiration for David, and I am sure every Senator who came into contact with him shared that feeling. This fine young man set a very worthy example for all of us. He was respected and loved by everyone who had the pleasure of knowing or working with him.

I am very much distressed about the news the Senator brings us. All of us who knew him well mourn David's loss.

Mr. CHILES. Mr. President, I associate myself with the very fine remarks.

I think it is always a great thing to see a young man grow. From the time David started working here, you know, I think all of us had an opportunity to see him grow in the job he was doing, the way he handled himself, and the way he built his friendships and his confidences with his fellow employees and with the Members of the Senate.

I think he was a young man you could literally sort of watch grow every day. I think the loss we all feel is our loss now because of the pleasant associations we had with him and in the way he would always try to accommodate to any wishes that we had.

I certainly feel a great loss on that basis, and I agree with the distinguished Senator from West Virginia that there is no untimeliness in receiving the call. We are all going to spend a brief journey in this life, and then we are going to go on. I think we just gather together in our sorrow today in the loss of David and we join in sympathy to his family in knowing that David is there, now probably, in the Great Beyond.

Mr. MATSUNAGA. Mr. President, I wish to join with my colleagues in expressing deep regrets on the passing of David Watson. I think his attitude toward his work was a wholesome, healthy one. The courtesy which he extended to all Senators, the respect that he showed with whomever he dealt, I think, are attributes which speak highly of David. David was a real credit to the Senate which he so well served. We certainly will miss him.

Mr. STEWART. Mr. President, I have just learned of a great tragedy that has taken the life of an employee of the Senate. Last night, near my home town of Anniston, Ala., a plane crash caused the death of four young Alabamians. One of those four was David Watson, who worked in the Senate Democratic Cloakroom. Many of us knew David and some of us were fortunate enough to know him

well. He was a personal friend of mine, my family, and my staff. Since coming to Washington, we all were helped by David, who went out of his way to make us feel at home. Though young, David had been in the Senate for a number of years, starting with his appointment by Senator JOHN SPARKMAN as a page. From that beginning, David fell in love with the Senate. With the passing of David Watson, the Senate lost one of its most loyal, decent, and brightest young people.

Though I did not personally know the others, my heart also goes out to the families of the others who died in this tragedy. One of these victims was Louise Tate, who worked for my predecessor, Senator Jim Allen, before taking a job with the National Association of Manufacturers. Another victim was Jack Farish. Like David, Jack was from Monroeville, Ala., and was a staff assistant to Congressman JACK EDWARDS. Finally, the crash took the life of Cathy Stewart, from Newton, Ala., and a member of the staff of Congressman BILL DICKINSON.

Words cannot suffice at a time like this. I can only say that four young lives have been taken before their time. I ask that each of you remember the families of these young people in your prayers.

Mr. President, I would just like to join my colleague from Alabama and associate myself with his remarks and those of the Members of the Senate which they made about David.

We are all deeply saddened by the loss of this 19-year-old boy, as anybody would be. As his father said, he wanted those of us up here to know that he felt his son had a full life in many respects by the time he reached the age of 18 by being associated with Members of this body. I am quite sure it is true.

I want to say to my colleague that I thank him very much for taking the time to share with the Members of the Senate the events that took place and to give us the opportunity to make these comments and remarks.

A PROMISE TRAGICALLY INTERRUPTED

Mr. ROBERT C. BYRD. Mr. President, with deep sorrow, I regret to hear of the death of one of the best known and well-liked young employees of the Senate. Our colleague (Mr. HEFLIN) announced earlier this afternoon to the Senate that the tragedy had occurred in which Mr. W. David Watson of Monroeville, Ala., who was a staff assistant in the Democratic cloakroom and a former chief page of the Senate, was fatally injured last night in the crash of a private plane while enroute back to Washington following the Thanksgiving recess.

David was born in Louisville, Ky., and had celebrated his 19th birthday this past summer. Some time after his birth, David had been carried to Alabama by his parents, and had resided subsequently in Bruton and Monroeville in that State.

In 1975, David became a Senate page and was enrolled in the Capitol Page School, from which he graduated in 1978. He was named chief page in 1977, and staff assistant in the cloakroom in January 1978. At the time of his passing, he was also pursuing a baccalaureate degree at Northern Virginia Community College.

I am sure that everyone who met David was impressed by his firm and admirable character, his diligence, his promptness, his courtesy, and his precocious sense of responsibility. Moreover, he was attractive, well-groomed, gentlemanly, and bright, and set high standards of performance and achievement among his friends and associates, by whom he was considered a leader.

Mr. President, I am certain that I speak for all the Senators and Senate employees who knew David Watson, in expressing sincere condolences to his parents, his family, and friends, for the incalculable loss that they have suffered. David was an outstanding young man of real potential, who made genuine and unique contributions to the Senate in the service that he faithfully rendered during the years he worked on Capitol Hill, and he will be profoundly missed by those here who were privileged to know him.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Mr. President, on behalf of all Members on our side, I hope the majority leader will make that a statement on behalf of the Senate as a whole.

We, too, regret deeply the news we received of another plane crash.

I am saddened, as the majority leader would know, because of my personal experience in one of those crashes, to hear that so many of our young assistants have suffered as a result of this crash.

I heard the statement earlier by the Senator from Alabama. It is a sad day for all of us.

I particularly would like to join with the Senator from West Virginia in paying our respects to this young man who was such a distinguished employee of the Senate as a whole.

Mr. ROBERT C. BYRD. Mr. President, I thank my friend.

RETIREMENT PROVISIONS FOR CERTAIN BUREAU OF INDIAN AFFAIRS EMPLOYEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 407.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1885) to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

● Mr. McGOVERN. Mr. President, I wish to express my strong support for the provisions in H.R. 1885, and urge my colleagues to approve this long overdue resolution to a Government employment "Catch 22" problem.

As a cosponsor of the Senate companion bill, S. 844, in this Congress, as well as other sessions where the Senate has acted favorably on the same measure, I believe the Government employees affected by it deserve this final consideration.

We have, within the Federal Government, a group of employees that has been denied advancement for several years for no fault of their own. This group is made up of non-Indians who work for the Indian affairs agencies, and who are stymied in their present job level because of preference hiring done in those agencies. This legislation does not address the preference issue; it merely allows non-Indian employees to elect early retirement because of their unique situation.

This bill affects about 4,000 individuals, most of whom have communicated with me over the last few years. They are, in most cases, highly specialized employees who have been frustrated in their status quo positions and in the unsuccessful attempts made to transfer them to other agencies.

I ask support for this bill, which has been approved here before, on behalf of the nonpreference employees and the need for fairness in this unfortunate situation.●

● Mr. MELCHER. Mr. President, I appreciate the action of the Government Affairs Committee, particularly the chairman, Senator RIBICOFF, and the subcommittee chairman, Senator PRYOR, in bringing H.R. 1885 to the floor for action. I also want to recognize the work of Senator STEVENS who originally carried the ball on this legislation in the 94th and 95th Congresses.

This bill, with virtually identical provisions, passed the Senate in the 95th Congress only to die in the House. In the 94th Congress a more generous bill passed Congress, only to be vetoed. It is essential that we no longer delay action to bring a measure of equity to the non-Indian employees of the BIA and the Indian Health Service.

Because of the Supreme Court's interpretation of the Indian preference law relative to employment in these two agencies, non-Indian employees are denied the opportunity of promotion, or even of lateral transfer within the agencies. They are effectively frozen in their jobs. S. 1885 will have a double benefit. It will permit non-Indian employees with long years of service to retire earlier. Further, such a policy will open up more opportunities for competent Indian professionals in these agencies.

I urge the Senate once again, for the third, and, I hope, the last time to pass H.R. 1885. This time, because of the approval of the administration, including the Secretary of Interior, Office of Management and Budget and the Office of Personnel Management this long-delayed legislation will become law.●

Mr. STEVENS. Mr. President, I urge quick passage of H.R. 1885, which is almost identical to S. 844 introduced by the distinguished Senator from Montana. For the last two Congresses, I have sponsored and supported similar legislation to remedy the intolerable situation existing at the Bureau of Indian Affairs and the Indian Health Service.

Last year, we came close to resolving

this issue. S. 666, a bill I introduced, passed the Senate. Now, we have the opportunity to pass the House's version and remedy the increasingly intolerable situation in the two Indian agencies. Indian preference in hiring and promotions, though desirable, has locked non-Indian employees into dead end jobs.

H.R. 1885 will achieve a certain degree of equity for these non-Indian employees by allowing them to retire earlier than normally would be the case. It will also, to the extent that it enncourages retirement, release those jobs which are now held by the non-Indians so that they can be filled by the relatively greater number of qualified and educated Indians who are anxious to work within the Bureau of Indian Affairs and the Indian Health Service.

The bill would provide increased retirement benefits to those non-Indians who retire after completing 25 years of service or after completing 20 years of service at age 50. Also, these employees must be employed by the Bureau of Indian Affairs or the Indian Health Service on the date of the enactment of this act, and not otherwise entitled to annuity under any other sections of the civil service retirement, nor can they be entitled to a preference under section 12 of the Wheeler-Howard Act, or any other provision of law granting a preference to Indians in promotions or other personnel actions.

In addition, the annuity formula in the bill is carefully calculated to effectively, but not unnecessarily, encourage non-Indian employees to retire. This is an essential factor in the legislation, in my opinion, in view of the fact that early retirement is the key to the success of this bill. The cost of the bill is clearly outweighed by the benefits to be derived from it—both for Indians and non-Indians. In fact, the cost will be substantially less than last year's bill because the annuity formula devised in this bill only awards the additional sums to the period of service the affected employees worked after the lower court decision upholding Indian preference.

Mr. President, we must act soon. The longer we wait, the more unfair the situation becomes. Non-Indian employees who are continually retiring are being penalized with low retirement benefits solely because they were subject to Indian-preferred promotions.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 1885) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO RECESS ON FRIDAY UNTIL 9 A.M. ON SATURDAY, DECEMBER 1, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in recess until the hour of 9 o'clock Saturday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REDUCTION OF TIME FOR LEADERS ON SATURDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Saturday, the time of the two leaders be reduced to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 1648 ON SATURDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the recognition of the two leaders on Saturday, the Senate then proceed to the consideration of Calendar Order No. 445, S. 1648; a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I think that had already been ordered except for the time change.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR CONSIDERATION OF CERTAIN TREATIES ON WEDNESDAY, THURSDAY, FRIDAY, AND SATURDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that on Wednesday, after the two leaders have been recognized under the standing order, the Senate proceed to the consideration of Calendar Orders Nos. 9 and 10 on the Executive Calendar, these being Executive K, Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques; and Executive L, Convention Abolishing the Requirement of Legalization for Foreign Public Documents; that there be not to exceed 20 minutes, to be equally divided between Messrs. CHURCH and JAVITS; after which the Senate proceed to a vote—that will be a rollcall vote—on the two treaties en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the vote en bloc, of the motion to reconsider, if made, that there be no time for debate thereon; and that the Senate, upon the disposition of the two treaties, and then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this means that one rollcall vote will count for two in the RECORD.

Mr. President, I make the same, identical request with respect to Thursday, and that the treaties involved in that instance to Calendar Orders Nos. 11, 12, and 13.

Mr. STEVENS. Reserving the right to object, is the time the same for convening on that day?

Mr. ROBERT C. BYRD. Well, the time for debate on the treaties would be the same, 20 minutes equally divided. They would be voted on en bloc, with one vote counting for three. Undoubtedly, that will be a rollcall vote and we shall order the rollcall votes in advance.

Mr. STEVENS. Still reserving the right to object, it is the majority leader's intention that these votes occur after the leadership time and before any special orders?

Mr. ROBERT C. BYRD. The request would be that, immediately after the leaders have been recognized, we proceed with consideration of the treaty. As a general rule, if orders are entered in the interim for the recognition of Senators, these orders will get ahead of those matters.

Mr. STEVENS. They will precede the treaty? That is what I want to make sure.

Mr. ROBERT C. BYRD. Yes. Let me make it absolutely clear.

Mr. President, I ask unanimous consent that, on Wednesday, or Thursday, on Friday and on Saturday, immediately after the recognition of the two leaders or their designees under the standing order, or after the recognition of any Senators for whom orders have been entered for recognition, the Senate then proceed on Wednesday to vote en bloc after 20 minutes of debate, equally divided as aforesaid, on Calendar Orders Nos. 9 and 10 on the Executive Calendar; on Thursday, on Calendar Orders Nos. 11, 12, and 13; on Friday, on Calendar Orders Nos. 14, 15, and 16; and on Saturday, on Calendar Orders Nos. 17 and 18.

Mr. STEVENS. Mr. President, I do not object. I thank the majority leader for his clarification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at any time to order the yeas and nays on the aforementioned treaties with one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREATIES

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished chairman of the Foreign Relations Committee to make the following request:

I ask unanimous consent as in executive session that the various treaties which have been cleared for action on Wednesday, Thursday, Friday, and Saturday be considered to have passed through the various legislative stages up to and including the presentation of the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES; EX. K—95TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Without objection, the first treaty will be considered as having passed through its various parliamentary stages up to and including

the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, signed at Geneva on May 18, 1977 (Executive K, 95th Congress, 2d session).

CONVENTION ABOLISHING THE REQUIREMENT OF LEGALIZATION FOR FOREIGN PUBLIC DOCUMENTS; EX. L—94TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Convention Abolishing the Requirement of Legalization for Foreign Public Documents, the Ninth Session of the Hague Conference on Private International Law on October 26, 1960. (Executive L, 94th Congress, 2d session.)

TREATY WITH THE REPUBLIC OF TURKEY ON EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS; EX. AA—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Treaty with the Republic of Turkey on Extradition and Mutual Assistance in Criminal Matters, signed at Ankara on June 7, 1979. (Executive AA, 96th Congress, 1st session.)

EXTRADITION TREATY WITH FINLAND; EX. I—95TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty with Finland, signed at Helsinki on June 11, 1976. (Executive I, 95th Congress, 1st session.)

EXTRADITION TREATY WITH THE FEDERAL REPUBLIC OF GERMANY; EX. A—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty with the Federal Republic of Germany, signed at Bonn on June 20, 1978. (Executive A, 96th Congress, 1st session.)

EXTRADITION TREATY WITH THE UNITED MEXICAN STATES; EX. M—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty with the United Mexican States, signed at Mexico City on May 4, 1978. (Executive M, 96th Congress, 1st session.)

EXTRADITION TREATY WITH JAPAN; EX. P.—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Extradition Treaty with Japan, signed at Tokyo on March 3, 1978. (Executive P., 96th Congress, 1st session.)

EXTRADITION TREATY WITH NORWAY; EX. CC—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Extradition Treaty with Norway, signed at Oslo on June 9, 1977. (Executive CC, 96th Congress, 1st session.)

TREATY WITH THE REPUBLIC OF TURKEY ON THE ENFORCEMENT OF PENAL JUDGMENTS; EX. BB—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Treaty with the Republic of Turkey on the Enforcement of Penal Judgments, signed at Ankara on June 7, 1979. (Executive BB, 95th Congress, 1st session.)

TREATY WITH THE REPUBLIC OF PANAMA ON THE EXECUTION OF PENAL SENTENCES; EX. Z—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Treaty with the Republic of Panama on the Execution of Penal Sentences, signed at Panama on January 1, 1979. (Executive Z, 96th Congress, 1st session.)

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider all the nominations on the Executive Calendar on pages 3, 4, and 5, beginning with New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The assistant legislative clerk proceeded to read the nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable with the distinguished acting Republican leader, I ask unanimous consent that the nominees be considered and confirmed en bloc.

Mr. STEVENS. That is agreeable.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Warren John Ferguson, of California, to be U.S. circuit judge for the 9th circuit.

Cecil F. Poole, of California, to be U.S. circuit judge for the 9th circuit.

Dudley H. Bowen, Jr., of Georgia, to be U.S. district judge for the southern district of Georgia.

Milton Lewis Schwartz, of California, to be U.S. district judge for the eastern district of California.

William O. Bertelsman, of Kentucky, to be U.S. district judge for the eastern district of Kentucky.

Peter Hill Beer, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

James T. Giles, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

Lucius Desha Bunton III, of Texas, to be U.S. district judge for the western district of Texas.

Harry Lee Hudspeth, of Texas, to be U.S. district judge for the western district of Texas.

DEPARTMENT OF JUSTICE

Alice Daniel, of the District of Columbia, to be an Assistant Attorney General.

George Washington Proctor, of Arkansas, to be U.S. attorney for the eastern district of Arkansas.

Frederick A. Rody, Jr., of Florida, to be Deputy Administrator of Drug Enforcement.

DEPARTMENT OF COMMERCE

Sidney A. Diamond, of Arizona, to be Commissioner of Patents and Trademarks.

DEPARTMENT OF STATE

Richard Cavins Matheron, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Patricia M. Byrne, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma.

Angier Biddle Duke, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

Donald R. Toussaint, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka.

UNITED NATIONS

Richard Wilson Petree, of Virginia, to be Deputy Representative of the United States of America in the Security Council of the United Nations, with the rank of Ambassador.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning James H. Kirk, to be a Foreign Service information officer of class 2, a consular officer and a secretary in the Diplomatic Service of the United States of America, and ending Ingrid Pfanzelt, to be a consular officer of the United States of America, which nominations were received by the Senate on October 26, 1979, and appeared in the CONGRESSIONAL RECORD of October 29, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominations were considered and confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation en bloc of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. LUGAR AND MR. TSONGAS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of Mr. SCHMITT under the order previously entered, Mr. LUGAR be recognized for not to exceed 15 minutes, and that he be followed by Mr. TSONGAS for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:15 a.m. tomorrow morning.

The motion was agreed to; and at 7:04 p.m., the Senate recessed until tomorrow, Tuesday, November 27, 1979, at 10:15 a.m.

NOMINATION

Executive nomination received by the Senate November 26, 1979:

DEPARTMENT OF JUSTICE

Charles B. Renfrew, of California, to be Deputy Attorney General, vice Benjamin R. Civiletti.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 26, 1979:

DEPARTMENT OF JUSTICE

Alice Daniel, of the District of Columbia, to be an Assistant Attorney General.

George Washington Proctor, of Arkansas, to be U.S. attorney for the eastern district of Arkansas for the term of 4 years.

Frederick A. Rody, Jr., of Florida, to be Deputy Administrator of Drug Enforcement.

DEPARTMENT OF COMMERCE

Sidney A. Diamond, of Arizona, to be Commissioner of Patents and Trademarks.

DEPARTMENT OF STATE

Richard Cavins Matheron, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Patricia M. Byrne, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma.

Angier Biddle Duke, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

Donald R. Toussaint, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka.

UNITED NATIONS

Richard Wilson Petree, of Virginia, a Foreign Service officer of class 1, to be Deputy Representative of the United States of America in the Security Council of the United Nations, with the rank of Ambassador.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Warren John Ferguson, of California, to be U.S. circuit judge for the ninth circuit.

Cecil F. Poole, of California, to be U.S. circuit judge for the ninth circuit.

Dudley H. Bowen, Jr., of Georgia, to be U.S. district judge for the southern district of Georgia.

Milton Lewis Schwartz, of California, to be U.S. district judge for the eastern district of California.

William O. Bertelsman, of Kentucky, to be U.S. district judge for the eastern district of Kentucky.

Peter Hill Beer, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

James T. Giles, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

Lucius Desha Bunton III, of Texas, to be U.S. district judge for the western district of Texas.

Harry Lee Hudspeth, of Texas, to be U.S. district judge for the western district of Texas.

DEPARTMENT OF STATE

Diplomatic and Foreign Service nominations beginning James H. Kirk, to be a Foreign Service information officer of class 2, a consular officer and a secretary in the Diplomatic Service of the United States of America, and ending Ingrid Pfanzelt, to be a consular officer of the United States of America, which nominations were received by the Senate on October 26, 1979, and appeared in the CONGRESSIONAL RECORD of October 29, 1979.

EXTENSIONS OF REMARKS

THE DANGER OF ATROCITIES IN IRAN

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. BINGHAM. Mr. Speaker, "when doctrine is expressed in violence, atrocities become sacramental."

That memorable sentence, which casts the current situation in Iran in a vivid and frightening light, comes from an article by George Ball in the Washington Post for November 21.

Another memorable passage from the article is the following:

Fanaticism is the dark face of religion and, in the words of the French encyclopedist, Diderot: "There is only a step between fanaticism and barbarism." In Iran today, Khomeini has taken that step.

The text of Mr. Ball's noteworthy article follows:

A VIOLATION OF PRINCIPLE

(By George W. Ball)

In holding Americans hostages in our Tehran Embassy Ayatollah Khomeini's followers are violating a principle of diplomatic inviolability respected by civilized nations for 4000 years.

The ancestors of the present Iranians, the ancient Persians, showed a decent respect for that rule. Herodotus relates how the Persian

King Darius sent emissaries to Athens and Sparta to demand Persian control over land and sea—or, symbolically, "earth and water." The Athenians responded by throwing the one group of emissaries into a pit and the Spartans threw the other into a well, telling them scornfully to carry earth and water to their king from those two places.

Herodotus speculates that Athens' subsequent destruction by the Persians may well have been in punishment for that insolent action. The Spartans suffered also, concluding, with the post hoc, propter hoc logic of classical mythology, that their mistreatment of the Persian envoys was the reason that favorable omens no longer resulted from their sacrifices. With remorse born of panic, they enlisted two young noblemen volunteers to offer their lives in penance to the Persian king. But Xerxes, who had by then succeeded his father, Darius, rejected the offer with the disdainful comment, "Persians would not behave like the Spartans, who, by murdering the ambassadors of foreign power, had broken the law which all of the world holds sacred."

All that, of course, was centuries before Persia fell under the periodic sway of fanatical Shi'ites, who just 150 years ago displayed their contempt for the law "all the world holds sacred" by an action that, up to a point, remarkably parallels the current lamentable developments.

In 1828, a famous Russian satirical writer and diplomat, Alexander Sergeyevich Griboyedov, negotiated the Treaty of Turkmanchai, by which Persia ceded Georgia to the Russian Empire. Soon thereafter, the Russian government sent Griboyedov to Tehran as ambassador and "acting head of the Russian Embassy" to oversee the execution of the treaty.

In the course of his duties in Tehran, the new ambassador gave sanctuary in the embassy to several Georgian women who by the treaty had become Russian subjects. The fact that they had escaped from Persian harems and that he was thus challenging an honored institution incensed fanatical Shi'ite leaders. The chief mujahid (roughly equivalent to an ayatollah) denounced Griboyedov and demanded his death, announcing that Persians could legally rescue the refugee women from the infidel Russians.

Inflamed by these exhortations and acting with the apparent support of the shah (whose cousin was one of the most violent of the agitators), a mob of perhaps 100,000 stormed the Russian Embassy where Griboyedov was living. Though Griboyedov bravely mounted a defense, the mob killed not only his guards but the whole diplomatic mission and staff—a total of 37. The mob then mutilated Griboyedov's body to the point where other Russian representatives could later identify it only by an old dueling scar.

Fearing the wrath of the Russian Empire, the shah did not respond in the manner of the Spartans by offering as penance the lives of two noblemen—or even two noblewomen; instead, he gave the Russians a huge diamond from the famous Peacock Throne. That throne—the ultimate in conspicuous consumption—had been built for Tamerlane and was among the spoils taken by the fierce Persian conqueror Nadir Shah when he captured Delhi from the last of the great Mogul emperors—a voluptuous monarch who was reputed never to have been "without a mistress in his arms and a glass in his hand." The stone turned over to the Russians—which had become known as the "Shah Diamond"—is now part of the collection in the Kremlin.

Since optimism is the only useful working hypothesis, one must assume that the world has made at least marginal progress since 1828 and that the hysterical rabble surrounding our embassy (it insults education to call them "students") will not physically injure the hostages. Nevertheless, the fact that fanatical Shi'ites have once again stirred up a mob to assault a foreign embassy, as they did a century and a half ago, suggests the inevitable excesses of a theocratic state—and the dangers of ever entrusting political power to religious zealots. Since religious passions perverted into hatred acquire inhuman ferocity, it is not surprising that religious wars have been among the bloodiest in history; for when doctrine is expressed in violence, atrocities become sacramental.

Nations maintain peaceful relations with one another by constant compromises that reconcile one people's interests with another's. But dogmatic religions are based on too many absolutes—and all too often their prophets are too intolerant to acknowledge the interests of others. Moreover, religion armed with the powers of the state is a force without accountability since it recognizes no man-made constraints.

At many times and in many places, bigots from Savonarola to the archbishop of Salzburg to Oliver Cromwell have destroyed freedom and placed stifling shackles on the boldest and noblest minds. Men of like tendency can also—as in Iran today—debauch a people by inflicting on a whole nation the wild lunacy of mob action. Fanaticism is the dark face of religion and, in the words of the French encyclopedist, Diderot: "There is only a step between fanaticism and barbarism." In Iran today, Khomeini has taken that step.

For Americans the lesson should be clear: our founding fathers were inspired to insert into the First Amendment of the Constitution a clause forbidding the making any laws "affecting the establishment of religion." That clause required the separation of church and state. Those few words are a heritage we must jealously guard.●

AGAINST FTC REGULATION OF WATER STANDARDS

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. DASCHLE. Mr. Speaker, I would like to follow up on what has been said in hope that the FTC be prohibited from a proposed trade regulation covering the voluntary standards and certification process.

There are presently 20,000 existing standards applied throughout the country that would be affected by this ruling. I am especially concerned about the effects of this ruling on water standards.

Currently, procedures regarding water utility management and standards are handled voluntarily with a minimum of difficulty that benefit our citizens through improved water supplies at low costs. At this time, around 120 standards projects are established through the American Water Works Association. These standards cover everything from the treatment of water, to what kind of pipes, valves, and hydrants should be used.

The association has estimated that if the FTC rule is imposed it will cost approximately $750,000 to $1 million to comply with. The association is a nonprofit organization that supplies information on standards for a nominal cost to city water officials, contractors, and others. It is thus reasonable to assume that these additional costs will have to be borne by those people who utilize this information.

Furthermore, and most importantly, an across-the-board procedure for developing standards imposed by the FTC will stifle future developments and updating of standards, and will lead to the inclusion of standards and products that may not only be inferior, but also dangerous to the public health. Needless to say, the established standards developed under current procedures have been formulated by knowledgeable and expert people. These people would be locked into procedures that may be totally contrary to the level of development they have established regarding water standards.

Finally, I would like to say that the FTC proposed rule is too encompassing and restrictive. Due to a few isolated instances, we now face regulation over thousands of standards and certifications, many of which like the water industry, have developed a responsible and effective approach to the unique elements within the industry. For over 100 years, these standards have been developed that work to supply our Nation with over 30 billion gallons of water a day, at no cost to the Government and little cost to consumers.

I fear that the only benefits accrued by FTC intervention will be increased costs accompanied with the likelihood that the quality of our Nation's water will be severely compromised in the process. I for one see no reason to take this chance and would request that the FTC be prohibited from regulating and voluntary standards and certification process, and request my colleagues to support the one-House veto as a means to accomplish this.●

HARRIS ANTITRUST PROCEDURAL IMPROVEMENT ACT GAINS SUBCOMMITTEE APPROVAL

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. HARRIS. Mr. Speaker, today I am introducing a bill to authorize the Department of Justice to use nongovernmental experts and facilities in antitrust investigations.

Enforcement of our antitrust laws is usually a laborious and complex task.

The CID is a tool that is used very often by Justice to determine whether they should pursue allegations of antitrust violations. In effect, it is a precomplaint civil discovery tool. Present law, however, states that materials obtained pursuant to a CID may be prepared for official use by any duly authorized "official or employee" of Justice. Use of the phrase "official or employee" has been argued to limit the organization, processing, analysis and evaluation of CID materials to those with full-time employee status. The fact of the matter is, however, that Justice does not have the manpower, and very often, the expertise, to decipher and organize the complex and voluminous material presented in response to a CID.

My bill would allow Justice to use "agents" (as well as "officials or employees") in their investigations. An "agent" would be defined as "any person retained by the DOJ in connection with the enforcement of the antitrust laws." In effect, this will permit DOJ to contract with outside experts and consultant firms to effectively and efficiently process, analyze, evaluate and utilize materials produced pursuant to a CID. Use of these contractor services would most frequently occur where a civil antitrust investigation required the production and analysis of great numbers of documents, or involved complex issues.

My bill would also impose the same criminal sanctions for the unauthorized disclosure of trade secrets and information discovered during the examination of the CID upon the "agents" that are already imposed upon Justice employees.

My Speaker, to help expedite the enforcement of our antitrust laws I urge my colleagues to support this important bill.●

UNITED STATES COULD TAKE IRAN TO WORLD COURT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. FINDLEY. Mr. Speaker, debate in the Security Council over the crisis in Iran is now scheduled to get underway. Perhaps this will lead to the release of the American hostages held in our Embassy, although at this point it is difficult to foresee just how that might occur.

Another avenue which the administration would do well to consider is taking the issue to the International Court of Justice at The Hague. As I explain in the following letter to President Carter, Iran's detention of our Embassy personnel flagrantly violates an international treaty to which both the United States and Iran are parties. The World Court is uniquely capable of giving a ruling upon the legality of the Iranian seizure of our citizens and property, and it may be that the Iranians would welcome this international forum as fulfilling their own domestic needs, and thereby permit the Americans to come home. In any case, a World Court decision in our favor would provide President Carter with ample justification (if he does not have it already) for taking the strongest possible steps to secure release of the 49 men and women who are still held captive.

CONGRESS OF THE UNITED STATES,
November 21, 1979.

HON. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In this critical and complicated crisis I suggest a further initiative the United States could take at this time.

The detention of the American Diplomatic officials in the Embassy seems to be in clear violation of international law. The Vienna Convention on diplomatic relations states:

ARTICLE 22

1. The premises of the mission shall be inviolable. The agents of the receiving state may not enter them, except with the consent of the mission.

2. The receiving state is under a special duty to take all appropriate steps to protect the premises of the mission against intrusion of damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

ARTICLE 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving state shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Both Iran and the United States are signatories to the Vienna Convention and therefore bound by its terms. Since apparently there is a dispute between our two countries over the application of that Convention to this current situation, I recommend that the United States move in the International Court of Justice at the Hague to secure a binding opinion on the applicability of the Vienna Convention to the current status of our diplomatic personnel in Iran.

There are several factors which favor this course of action.

1. First and foremost, of course, is the virtually unanimous opinion among all international lawyers in the world that the American Embassy officials—regardless of their assignment—must have their diplomatic immunity restored. In short, on this issue, all agree that the United States would prevail on the merits.

2. There is no way Iran or any other nation can prevent the United States from taking the dispute to the World Court. In fact, a separate protocol to the Vienna Convention—a protocol to which both Iran and the United States are signatory—states:

"Disputes arising out of the interpretation for application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a party to the present protocol."

Thus, the United States does not need the support of the United Nations nor the agreement of Iran to take the controversy to the World Court and get an opinion declaring Iran's conduct illegal. The initiative is realistic. It can be accomplished, and Iran probably cannot stop it.

3. It is even possible that Iran might support putting this aspect of the controversy before the International Court of Justice. Iran has long sought a forum at the United Nations to discuss the broader issues involving the Shah and his property. A trial at the World Court would provide the government of Iran with a world forum to raise whatever issues it chooses.

Undoubtedly the Court would feel it had no jurisdiction to rule on these extraneous issues. Nevertheless, the Iranian government would have a forum to discuss whatever it deems important or relevant. For our part, the United States could agree to be bound by any decision of the International Court of Justice on the status of our diplomatic staff, and in return the Iranian government should immediately restore control of the American Embassy to the United States pending the decision of the World Court.

Regardless of whether Iran agrees to accept the arbitration of the World Court on the status of our Embassy personnel, I believe that the United States should undertake this initiative. Even if Iran rejects it totally and fails to present any evidence or arguments, the World Court should still feel under an obligation to rule on the question since both countries have agreed to the Court's complusory jurisdiction. Moreover, you would assume the highest moral plain should it become necessary for you to take some action to "enforce" a World Court decision against Iran.

Finally, I urge you to make it abundantly clear that the United States is prepared to act with strong military measures if Iran carries through with its threats to put on trial the forty-nine American hostages remaining in our Embassy.

To show that we mean business, you should notify all other Americans still in Iran, and all foreign diplomatic personnel stationed in Iran, that the United States will not be responsible for their safety at such point as any trial of Americans begins. In the coming days and weeks, we should make the silence of foreign tongues in Iran deafening to all Iranians.

Sincerely yours,

PAUL FINDLEY,
Representative in Congress.●

NO MORE MILWAUKEE ROAD BAILOUTS

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. SENSENBRENNER. Mr. Speaker, the time has come to reorganize the Milwaukee Railroad into a line which will exist without the necessity of providing millions of dollars of additional operating subsidies. Implementation of the bankruptcy court trustee's reorganization plan will do just that.

The Milwaukee Railroad Reorganization Act enacted earlier this month establishes specific deadlines for shippers and employees of those routes to be abandoned under the trustee's plan to come up with an employee-shipper ownership plan. Should they fail to do so, or should the Interstate Commerce Commission reject that plan, the reorganization should proceed forthwith without any more taxpayer subsidies.

Two Wisconsin newspapers have editorialized along these lines. I include them herewith:

[From the Milwaukee Journal, Nov. 8, 1979]

PROLONGING A RAILROAD'S AGONY

President Carter poured money down a rathole when he signed legislation to keep the Milwaukee Road operating on all 9,000 miles of its rail lines. The $15 million a month in federal loans that will be available until Dec. 15 is an economic waste. The operations it will finance aren't viable.

Politics plainly influenced Carter's decision. The western states that supported the measure, restoring Milwaukee Road service on 4,800 miles of track from Montana to the Pacific Northwest, are important to Carter's re-election bid. These states understandably are concerned over the loss of Milwaukee Road rail service sanctioned by a federal judge in an effort to save the bankrupt line.

But the unpleasant fact is that the 4,800 miles of track that the judge allowed the Milwaukee Road to abandon are economic losers. The only hope of maintaining the Milwaukee Road as a solvent transportation enterprise is to pare it to the core. That is what the judge ordered, and what Carter's own Transportation Department supported.

The new legislation embodies the dreamy notion that somehow between now and the middle of December shippers and rail employes on the railroad's western routes will be able to formulate a financially workable plan to maintain operations on the abandoned track. In actually, the new law simply prolongs the railway's economic agony while diverting the communities and shippers along the railroad's western tracks from the search for realistic transportation alternatives. Meanwhile, more debt is piled on the Milwaukee Road and the taxpayer is asked to shell out.

[From the West Bend (Wis.) News, Nov. 17, 1979]

RESCUING THE MILWAUKEE ROAD

The emergency legislation rushed through Congress and signed the same day last week by President Carter will allow resumption of freight service on the Milwaukee Road's western lines, but it is not a long-range solution for the railroad's problems.

The federal government is going to guarantee loans of up to $15 million a month while awaiting action by employees and/or shippers to come up with a plan to buy and operate the railroad. The deadline on such a plan, however, is Dec. 15.

If that plan fails, the railroad's court-appointed trustee can start selling off unprofitable trackage or cutting off service. The railroad has 2,500 miles of freight lines from Miles City, Mont. to Tacoma, Wash., and another 2,200 miles of lines in South Dakota, Iowa, Minnesota, Wisconsin, Illinois and Michigan which are losers. The trustee wants to cut service back to an inner core of trackage in the Midwest.

Railroad men often refer to the Milwaukee Road as "a railroad which never should have been built." It has been going bankrupt for several decades now.

In the meantime, the federal government in general, and the Interstate Commerce Commission, in particular, have not addressed the basic problem. Action should have been taken long ago to merge the railroad's unprofitable trackage with competitors, or authorize a suspension of service.

The important factor is that shippers along the Milwaukee Road's trackage should be served by a railroad with financial stability. And a railroad needs more than government subsidies or loan guarantees to achieve such stability.●

PUERTO RICO NATIONAL GUARD

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. CORRADA. Mr. Speaker, I want to include in the RECORD a letter dated October 24, 1979, by the Governor of Puerto Rico, the Honorable Carlos Romero-Barceló, to the Honorable Harold Brown, Secretary of the Department of Defense, regarding the recent 4-week period of duty of the Puerto Rico National Guard in the Dominican Republic during the emergency created by Hurricane David. Some elements of the Puerto Rico National Guard were mobilized by orders of President Carter.

This is an excellent example of how well Puerto Ricans can serve to close the gap created by the cultural differences between the United States and our Latin American neighbors. The hurricane-stricken people of the Dominican Republic will now feel closer to the United States and will understand our friendly policies toward them.

I feel proud of these elements of the Puerto Rico National Guard and want to make a public recognition of their accomplishments.

The text of the letter is enclosed:

OFFICE OF THE GOVERNOR,
LA FORTALEZA, SAN JUAN, PUERTO RICO,
October 24, 1979.

THE HONORABLE HAROLD BROWN,
U.S. Department of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY:

Elements of the Puerto Rico National Guard recently completed a four-week period of duty in the Dominican Republic, in support of United States aid efforts in that neighboring, hurricane-stricken nation. This utilization of our Guardsmen marked a first in National Guard history, in that they were federalized and deployed as part of an international support effort by the United States Government.

At the close of operations on 7 October 1979, the National Guardsmen had logged over 766 flying hours in more than 162 mercy missions, including transportation of over 600,000 pounds of cargo (including food and medical supplies) and more than 1,000 persons (the sick and injured, engineers, doctors, nurses, liaison officers and personnel attached to the U.S. Evaluation Team, among others). Our equipment was maintained in a high state of readiness despite the intensive use to which it was put. Through the efforts of our Guardsmen, many individuals and families in isolated rural areas received timely assistance.

Everywhere they went, our troops were warmly received and their assistance acknowledged by a grateful population. The good will generated by the actions of the Puerto Rico National Guard will no doubt be remembered for many years to come. At the same time, of course, the image of the U.S. Government and its Armed Forces was unquestionably enhanced throughout the Dominican Republic.

I would submit that there are lessons to be learned from this experience. Clearly the ethnic heritage and bilingual capability of our Puerto Rico Guardsmen renders them ideally suited for service in the Caribbean and Latin American area. Their ability to communicate in Spanish was a major contributor to the establishment of an excellent rapport and working relationship with the Dominican authorities.

I have no doubt that the deployment of elements of the Puerto Rico National Guard in similar circumstances in the future is not only desirable but also advisable. The possibility of implementing other types of activities and interchanges involving the use of the Puerto Rico National Guard in the region should also be considered.

In conclusion we feel very proud of the constructive role which has been played by the Puerto Rico National Guard in the recent Dominican emergency. Should the President wish to make similar use of our personnel on a future occasion we shall stand ready as patriotic American citizens, to respond to his call with vigor.

Sincerely.

CARLOS ROMERO-BARCELÓ.●

TRIBUTE TO MS. HIBEL

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to bring to the attention of this body the work of one of his country's greatest artists.

Edna Hibel, a resident of Massachusetts, has been drawing, painting and preparing lithographs for many years. Her moving and sensitive renderings, renowned throughout the world, are housed in many museums and galleries. I believe that it is indicative of the esteem in which the artistic community holds Ms. Hibel to note that she is the only living American woman artist to whom a museum has been dedicated.

Ms. Hibel has had the opportunity to travel and study throughout the world. Her work reflects this universal perspective. Her work transcends races, international boundaries and time. In the faces of her subjects one can see the entire spectrum of human emotion and experience.

Known especially for her paintings of mothers and children, Ms. Hibel expresses a message of tenderness, peacefulness and the youthfulness of the human spirit. She has completed a Mothers Day series of collectors plates (executed by Royal Doulton China), and has prepared several lithographs in honor of the International Year of the Child. I have found Ms. Hibel's work particularly moving at a time such as this when mothers and their children are suffering across the world.

The friends of Edna Hibel, with my enthusiastic support, have nominated her work to be used on a commemorative postage stamp. It is our feeling that her paintings would beautifully symbolize Mothers Day or a number of other, humanistic themes.

I would be happy to share her work with you and urge you to drop by my office to view it. After seeing these beautiful paintings, I'm sure that you will share my enthusiasm for this project.●

BIOMASS AS A SOURCE OF ENERGY

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. FITHIAN. Mr. Speaker, in the past few weeks, much has been said about the need for our Nation to renew its commitment to free itself from dependence on foreign sources of energy.

I am inserting, for the benefit of my colleagues, a copy of my remarks before the First Intern-American Conference on Renewable Sources of Energy. I hope that my comments on the promise of biomass as a source of energy for our country and for other nations in the Western Hemisphere will be of some help in this regard.

The remarks follow:

THE REMARKS OF THE HONORABLE FLOYD J. FITHIAN

We are gathered here with a common problem. Every nation represented here—nearly every nation of the Western Hemisphere—pays an economic price for our reliance on OPEC oil. For some the price is the bleeding away of capital desperately needed for their nations' economic development. For others—

more fortunate—who have their own energy resources, the price they pay is passed through to them when they buy goods from OPEC dependent nations. For all of us the final price is brutal inflation which robs our people individually and weakens the influence of our hemisphere on the international scene.

Since 1973, OPEC has learned that manipulation of international oil supplies—aimed at keeping the world market tight—is its most effective long-term price-setting tool. In the past 11 months alone we have seen OPEC prices rise a staggering 65 percent as a result of Iranian oil interruptions and Saudi cutbacks. The production cuts used to justify these price hikes were not large by volume—a decline of four to five million barrels a day at most. But they demonstrate the importance to OPEC of maintaining a tight world oil market. Indeed, the first business of the cartel now seems to be avoiding oil surpluses by seeing that the excess productive capacity of some OPEC members is not translated into excess production.

Any action we can cooperate in to relieve the stress of OPEC's tight market and escalating prices is worth the most serious investigation. The classical way by which the monopolistic pricing of cartels has been broken is to create new producers. This is where biomass energy comes in.

Experts estimate that four to five million barrels of oil would be enough to influence OPEC's price-setting mechanism. The source of that extra four or five million barrels is not particularly important, nor is its destination for consumption. Whether it comes from one new oil field or from a thousand small alcohol plants scattered across our hemisphere, it still affects the energy market and lessens OPEC's stranglehold on energy prices.

I argue that biomass energy offers a common answer we can work together to achieve. We will also pursue individual avenues such as oil shale and tarsands, but biomass development offers something to every one of us. The equivalent of four or five million barrels of oil per day is a reasonable, reachable goal for biomass development in the Western Hemisphere. Although such fuels cannot end all dependence on imported oil, through biomass development we can collectively work toward off future OPEC price increases.

As the authors of the Harvard Business School's report Energy Future observed, an ideal solar collector has already been designed. Requiring virtually no maintenance, it is economical and nonpolluting; it uses an established technology and it stores energy. It is called a plant. That plant is biomass.

When we talk of biomass conversion technology, we are really talking about ways of tapping the stored energy of plants. We can burn them directly for energy; we can let them decompose under controlled conditions to produce methane; we can heat them under pressure to produce oil and natural gas substitutes. Or we can ferment their sugars to produce a premium liquid fuel, alcohol.

The U.S. Department of Agriculture estimates that approximately 485 million dry tons of unused wood are left to rot in U.S. Forests every year. Assuming that half of this could be recovered and economically converted to energy in an environmentally sound way, it could produce up to 4.1 quads of energy per year,[1] or about 5.2 percent of the annual energy consumption in the United States. To this we could add crop residues not needed for soil enrichment and municipal solid waste. Using conservative figures, the total energy contribution biomass resources could make in the United States is staggering. The combined result of wood, crop residues, and urban waste could contribute between 6.2 and 6.8 quads of energy every year at least[2] or about 8 percent of the total U.S. energy consumption.

Beyond what the United States can develop, take a moment to scan the panorama of biomass resources across the face of our hemisphere. We see the great stretches of farmland across the North American plains and Argentina, the sugar cane residues of Brazil, the dense forests of Central America and the Amazon basin, the city wastes of every metropolis in North and South America. These are wastes which we have commonly burned, or buried, compressed or otherwise paid handsomely to dispose of. Now is the time for us to recognize these wastes as something other than a blight and a burden. We should drop the word waste altogether. Now these are resources.

The average ton of city garbage contains 57 gallons of ethyl alcohol—obtainable through a cellulosic conversion process developed at Purdue University. Bagass, the residue left from processing sugar cane, will convert into ethyl alcohol at the refinery equal to two cents per pound of sugar refined.

To those critics who believe that biomass can only be used by denuding the land, raping the forests, and robbing a hungry world of protein, I say look at the waste material that lies at our feet and that should be a resource. Excitment about making useful what has been useless is sweeping the farm belt not only of my own state of Indiana and the North American corn belt, but also is reaching into the forest country and to the gates of the cities as well.

Biomass energy can have impact on OPEC's market, but biomass plants will not be built for that reason alone. Private businessmen and governments—the people who will decide whether plants are constructed—will not ask "will it break OPEC," but rather "will it pay?"

Fortunately, the answer is yes, it will pay.

Brazil, now a world leader in bioenergy, proves the point. Long dependent on imported oil for industrial development, Brazil spent $3.8 billion in 1977 to pay for oil imports—eleven times what it spent in 1972. Seeing the disastrous economic consequences of a growing dependence on imported oil, the Brazilian government launched a massive National Alcohol Program aimed at achieving 20 percent of its motor fuel requirements from alcohol by 1980. This goal will allow Brazil to reduce its oil imports by 10 percent, generating the equivalent of half a billion dollars of foreign exchange savings yearly.

Congressman Bedell will be describing other examples of people and companies who have found a positive answer to the question, "will it pay."

It is not without irony that we meet here today in New Orleans, the Queen city of the southern United States. From her port over the years, hundreds of millions of tons of sugar have departed. Yet today the Louisiana sugar industry is on the verge of economic disaster bordering on total collapse. At the same time through this and other port cities in the U.S. we import over sixty billion dollars worth of oil. The net result is a not so subtle debasing of the dollar and with it the erosion of the U.S. economy.

We are just now becoming aware not only of this irony but that there is a common sense solution to it. I commend the organizers of this conference for their efforts to promote an awareness of this common sense approach. For one day we shall do it—and then look back and ask ourselves why we didn't do it earlier

How might we maximize both our hemispheric strength an our determination to use that strength to reduce the adverse impact of spiraling world energy prices spurred on by OPEC decisions? Would it not be in our collective best interests to form a Hemispheric Organization to Maximize Energy Resources (HOMER) to work under the umbrella of the OAS? The purpose would be to exchange information, to work on cooperative research, and to speed the day when the renewable resources of this hemisphere play their rightful role in our energy future. The objective of such an organization would be not only to promote expensive technology affordable only in nations capable of large capital formation but to develop and disseminate technical information about small, inexpensive rural technology—a necessity for countries with extraordinary foreign exchange problems and an inability to afford capital-intensive energy production facilities.

Efforts of this type are already underway in several developing countries in other parts of the world. China currently has close to a million small biogas plants in operation, and India, which has pioneered this technology more than thirty years ago, has 80,000. Scientists feel that biogas would eventually fulfill half of rural India's fuel needs.

We stand today on the threshold of a new era. Like all eras before it, it can be either the closing of an age or the beginning of a new one. I challenge you to make it a beginning. I challenge you as pacesetters and leaders of the Western Hemisphere to be unafraid to look backward in order to move forward, to be unfraid to mingle the best of the past with the brightest of the future, and to fear not to apply the most recent discoveries to the oldest energy sources in order to deliver renewable biomass energy to a needy hemisphere, a hemisphere trying to solve its newest major problem—energy cost. For one day we shall do it—and then look back and ask ourselves why we didn't do it earlier.●

[1] 4.1 quads/year equals roughly 2 million barrels of oil/day for a year.

[2] 6.2–6.8 quads/year equals roughly 3–3.3 million barrels of oil per day for a year.

WALKER TANNER

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to express my deepest sympathy to the family of a dear friend of mine, Mr. Walker Tanner of Union City, Tenn., who died recently. Mr. Tanner was a successful businessman and a citizen active in the civic affairs of his community.

He served in various capacities in the civic organizations in Union City, and contributed greatly to its growth and development. In addition, Mr. Tanner was my very dear friend. He was a man whose word could be counted upon, whose integrity was beyond question, and whose loyalty was unswerving. I know his passing is a great loss to his family and to his community. It is also a great loss to those of us who knew him well.

I want to take this opportunity to insert into the RECORD the article that appeared in the Union City Daily Messenger on the occasion of his death:

WALKER TANNER DIES, SERVICES SET SUNDAY

Walker Tyree Tanner, 86, founder and chairman of the board of the First Federal Savings and Loan Association of Union City and longtime civic and business leader, died about 5 p.m. Friday at the Union City Health Care Center.

Tanner, a resident of the Old Troy Road, was seriously injured in an automobile accident on July 3, 1977 and had been in ill health for a number of months.

Services will be held at 3 p.m. Sunday at the White-Ranson Funeral Home Memorial Chapel.

The Rev. Kenneth Adcock, pastor of the First Christian Church, and Dr. Bob Lloyd, pastor of the First Presbyterian Church, will conduct the services.

Burial will be in East View Cemetery.

Active pallbearers will be James Williams, Elwyn Oliver, John Howard, Campbell Garth, J. T. Vaughn, Ray Terrell, E. L. Jessup and Bob Terrell.

Honorary pallbearers will be Tom Elam, Dave Shatz, Barry White, Jim Rippy Jr., Robbert Adkinson, Carl Timm, Garland Bennett, John Pruett, James Rippy Sr., Ed Stone, Jeff Stone, Robert Cultra, Bert Cox, Jim White, Hayden Kirkland, Dr. W. B. Dunlap, J. M. Andrews, R. H. Armstrong, Charles Miles III, Dick Schaedle, Dr. Robert Latimer, Dr. J. Kelley Avery, Robert McAdoo, Gene McAdoo, James McAdoo, Dixon Williams and Johnny Semones.

Tanner was born in Obion County March 17, 1893, son of the late I. W. Tanner and Mrs. Mamie Walker Tanner.

He completed the Union City Training School and attended the University of Tennessee before returning to Obion County to travel as a representative of the old Union City Child Specialty House (an outlet for children and ladies ready-to-wear).

In 1917, he was married to the former Dorothy Beck. Mrs. Tanner, who was also seriously injured in the automobile accident in the summer of 1977, died in January of 1978.

Tanner was both a civic and business leader in his community. He became vice president of the Reelfoot Packing Co. of Union City and later organized the Union City Insurance Co. and founded the First Federal Savings and Loan Association of Union City.

He was also a past president of the Obion County Farm Bureau, past president of the Obion County Fair Association, past president of the Union City Rotary Club and was a Paul Harris Fellow with Rotary.

He was a member of the First Christian Church of Union City.

Survivors include two sons, Emerson B. "Buz" Tanner and W. W. "Bill" Tanner, both of Union City; five grandchildren, Mrs. Lynn Bowlin, Tommy Tanner, John Tanner, Roger Tanner and Ty Tanner, all of Union City, and five great-grandchildren.

Friends may call at the funeral home after 7 tonight.●

PERSONAL EXPLANATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. OBERSTAR. Mr. Speaker, during the sessions of November 15 and 16, 1979, I was absent from the House on official business in my district.

For the RECORD, I would like to indicate that had I been present on November 15, 1979, I would have voted:

"Nay" on rollcall No. 668, agreeing to the substitute to provide voluntary efforts to control hospital costs, rather than mandatory controls as provided in the legislation reported by the House Commerce Committee;

"Yea" on rollcall No. 669, passage of H.R. 2626, Hospital Cost Containment Act of 1979;

"Yea" on rollcall No. 670, motion to recede from disagreement and concur with Senate amendments to H.R. 4440.

On Friday, November 16, I would have voted:

"Nay" on rollcall No. 671, instructing conferees on H.R. 2440, Airport and Airway Development Act;

"Nay" on rollcall No. 672, agreeing to the conference report on H.R. 4391, military construction appropriations, 1980;

"Nay" on rollcall No. 673, passage of H.R. 2335, Solar Power Satellite Research, Development, and Evaluation Program Act of 1979;

"Nay" on rollcall No. 674, conference report on S. 1319, Military Construction Authorization Act, 1980;

"Yea" on rollcall No. 675, agreeing to House Resolution 473, providing for the consideration of H.R. 3994.

"Yea" on rollcall No. 676, agreeing to House Resolution 416, providing for the consideration of H.R. 3546;

"Yea" on rollcall No. 677, agreeing to House Resolution 438, providing for the consideration of H.R. 3580.●

ALAN BARTH

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. EDWARDS of California. Mr. Speaker, with deep sadness, I must advise my colleagues of the death in Washington last week of Alan Barth.

With Alan Barth's passing, those of us who knew him personally lost a gentle and loving friend. All others lost an eloquent voice for decency and fair play in our society.

Mr. Speaker, the material I am inserting in the RECORD tells of Alan's massive contributions to civil rights, due process, constitutional rights, and all of the key safeguards that make our country unique.

On my part, I will remember Alan Barth with gratitude for the friendship and counsel he gave me in the 17 years of our relationship. And for all of us in the Congress I send sympathy to his widow, Adrienne, his son, Andrew, his daughter, Flora Wolf, and his three grandchildren.

Mr. Speaker, I insert in the RECORD from the November 21 edition of the Washington Post the lead editorial and the moving obituary by Jean R. Hailey:

ALAN BARTH

Alan Barth, who died yesterday at the age of 73, was more than just our colleague on this editorial page for over a quarter-century. He was also our friend. That personal entanglement with him, a mixture of admiration and love, makes impossible the cool, objective appraisal we normally try to present here of the lives of people who have been important in the region or the country. Instead, we want to try to tell you why Alan Barth was a very special person to us and why we think the world in which we all live is better because of him.

When Alan joined the staff of the editorial page in 1943, he had a reputation as a staunch supporter of civil rights and civil liberties. This newspaper did not. When he retired in 1972, his reputation had grown enormously and this newspaper had changed. His views on desegregation, equal rights, freedom of speech and a host of other issues had become, by and large, our views. His insistence on standing up for the constitutional rights of every American, no matter how difficult that might be, had become our insistence. His imprint on editorial policies in those matters is so deep it can never be erased.

We like to think—and you can judge for yourself whether it is true—that these views made a difference not only to this newspaper but to this city and the country. Alan's voice was the voice of reason, arguing—before it was popular—for peaceful desegregation of the schools, for equal rights for everyone, for protection of the rights of criminal defendants and witnesses before congressional committees, for the widest possible interpretation of that great guarantee of "free speech," and against guilt by association. He stated the case for these positions passionately in hundreds of unsigned editorials and in a stream of books and bylined articles that made his name better known to a generation of college students than it was to our readers. In time, many of the things he argued for came to pass, although some are still a matter of strenuous debate. His professional career, we think, was a remarkable example of the ability of one man to influence the way all men think.

It was not always easy, either for Alan or for this newspaper, to be at the cutting edge of such controversies. The accusations made against us and him, personally, were often quite bitter. Words like "pinko," "pro-communist" and "nigger-lover"—in the days when those were still part of the debased currency—were thrown at him during the McCarthy days and the original school desegregation fights. Alan never flinched and his support for the causes in which he believed never wavered. We concede that others on this newspaper were sometimes deeply concerned about the road down which he was taking us. But when it was suggested he had gone too far, that he had defended the rights (as distinct from the deeds) of one too many criminals or political pariahs, he would merely smile that wry smile and start all over again the process of persuading others that the rights of no American are safe unless the rights of all Americans are safe.

Alan never controlled the editorial policies of this newspaper even on those subjects; control rested elsewhere. But he dominated them by persuading his colleagues, through scholarship and force of intellect, that he was right. He was helped, and directed, by his ability to find just the right phrase or just the right quip to bring laughter to a heated internal argument. But it was hard to maintain a disagreement with a man who had distilled so much of the learning of the country's great scholars and judges. There were, however, subjects on which his views did not dominate our policies. When such subjects came up in our daily conferences, he seemed to love the exposure of our differences almost as much as he loved their resolution in his favor. His joy, in other words, was almost as great in intellectual combat as in victory.

That is part of what made Alan so special to us. The rest is strictly personal. He was a man who loved life and people. Those whose personal lives crossed his, as ours did, were enriched by the encounter. He was gentle and kindly, full of wit and humor, always ready to offer help and whatever you might need. He surrounded himself with friends of all kinds. You could find them at his home in the evenings and on weekends—eating, playing softball and, above all, gabbing. You never knew when you went just what to to expect or whom you might see, but you did know that when you left you would be glad you had been there.

Oliver Wendell Holmes Jr., one of those whose writings greatly influenced Alan, once wrote of what he regarded to be the best service one could do for his country or for himself:

"To see so far as one may, and to feel the great forces that are behind every detail—for that makes all the difference between philosophy and gossip—to hammer out as compact and solid a piece of work as one can, to try to make it first rate, and to leave it unadvertised."

We cannot think of a more fitting epitaph for our colleague and friend.

ALAN BARTH, RETIRED POST WRITER, DIES

(By Jean R. Hailey)

Alan Barth, 73, an eloquent advocate of civil liberties and an editorial writer for The Washington Post for more than a quarter of a century, died of cancer yesterday at the Veterans Administration Hospital in Washington.

From the time he joined The Post in 1943 until his retirement in 1972, Mr. Barth wrote powerfully in support of the wider definitions of constitutional rights toward which the country was slowly moving.

Sometimes his editorials were sharp and stinging as were those that challenged the investigations conducted by the late senator Joseph R. McCarthy (R–Wis.). At other times, they were full of the humor and sense of the absurd that marked his own view of the world.

Although Mr. Barth did not set the policy of The Post's editorial page, he was often its spokesman on critical issues. He was instrumental, soon after he joined the newspaper, in changing its views on racial issues. It was in his words that The Post, in 1945, denounced the threat of Washington's white bus drivers to strike if the transit company hired black drivers. "To bar men from serving in these jobs because of their race or color is at once to hamper the war program and to subvert the principles for which the war is being waged."

And it was in his words that the paper vigorously defended freedom of speech and freedom of association during the McCarthy era. Mr. Barth's unwavering support for the constitutional rights of everyone, including some wrong-headed and even odious characters and causes, occasionally brought him into conflict with others on the newspaper's staff.

Philip L. Graham, the late publisher of The Washington Post, was furious with a Barth editorial in 1950 that defended the performance of Earl Browder, head of the American Communist Party, before the McCarthy investigating committee.

Mr. Browder had refused to identify his associates, and Mr. Barth had written: "In refusing to identify and stigmatize certain persons whose names were presented to him . . . Mr. Browder was patently in contempt of the committee's authority. But this contempt was pretty well earned by the drift and character of the questions . . . Not everyone in America tests a man's loyalty to his country by his willingness to betray his former friends."

The editorial became the centerpiece of a campaign against The Post, which already had been labeled pro-Communist, and Mr. Graham thought Mr. Barth had gone too far. He was intent upon firing Mr. Barth until Justice Felix Frankfurter persuaded him not to.

Through it all, Mr. Barth never wavered. He had been hired by Eugene Meyer, Mr. Graham's father-in-law and the newspaper's publisher then, who knew of his reputation as a strong liberal. Mr. Meyer said he wanted his editorial writers to "write with an assurance of freedom within their area of competence."

When he retired, Mr. Barth said, "I was never asked to grind anybody's ax or stuff anybody's shirt or pander to anybody's prejudice or pull any punches or consider the interests of any advertisers or politicians."

A mild-mannered, soft-spoken man, courtly in his ways, Mr. Barth did not often write under his byline in The Post. Editorials were then, as now, unsigned. But his personal views were expressed fully in a series of books, articles and speeches.

His first book, "The Loyalty of Free Men," was written at the height of the McCarthy era. It spread his reputation nationwide as it quickly became part of the common culture of college students. It set forth his philosophy.

"Congressional abuse and the distortion of the investigating power is threatening to establish in this country a legislative tyranny. Such abuse is threatening to overthrow the American form of government by upsetting its tripartite balance of power and usurping the powers reserved to the people," he wrote.

"Certainly there are real dangers to be faced. Espionage and sabotage are not imaginary threats to national security. . . . But the antidote is not repression: it is free and unlimited discussion."

Mr. Barth also was deeply concerned about the abuse of academic freedom and of police investigative powers. He dealt with these matters in later books, "Government by Investigation" in 1955, "The Price of Liberty" in 1961, and "Heritage of Liberty" in 1965.

In the "Price of Liberty," he was sternly critical of the often common police practice of detaining crime suspects without immediate arraignment and of unauthorized wiretapping. He wrote:

"Every society is obliged to see a rational balance between public safety and private rights—to choose between the exigencies of law and order on the one hand and the imperatives of freedom on the other."

Mr. Barth also was an advocate of gun controls. After the assassination of President John F. Kennedy, he waged a fruitless battle on The Post editorial pages against the National Rifle Association, which opposes controls. He wrote more than 1,000 editorials calling for gun controls, 77 of them on consecutive days.

But more often he saw his uncompromising positions on civil rights and civil liberties upheld. He favored school desegregation, and it came about with the Supreme Court decision in 1954. He wanted home rule for the District of Columbia, where he had lived since the 1930s, and saw the nation's capital win the vote.

In 1974, Mr. Barth published his fifth book, "Prophets with Honor," in which he wrote about 10 major dissenting opinions handed down in Supreme Court cases involving individual rights or liberties guaranteed by the Constitution.

Just as many of his own early and controversial positions on civil rights later were vindicated, so were those court dissents, which he noted "in time came to be recognized as right and to be adopted by the court majorities."

Mr. Barth was born in New York City, where his family was in merchandising. He attended Phillips Academy in Andover, Mass., spent a year traveling around the world, and then earned a degree from Yale University.

He was in merchandising for several years, and then went to Beaumont, Tex., where he worked as a reporter for the Enterprise in 1936 and an editorial writer for the Journal during 1937–38.

From there, Mr. Barth came to Washington as a correspondent for the McClure Newspaper Syndicate. He was an editorial assistant to secretary of the Treasury Henry Morgenthau Jr. from February 1941 to January 1942, when he joined the Office of War Information. He was with OWI when he was hired by Meyer.

Mr. Barth received many honors. In 1948, he was awarded a Nieman fellowship and studied American history and constitutional law at Harvard University.

In 1957, he was visiting professor of journalism at Montana State University, and in 1958–59, visiting professor of political science at the University of California at Berkeley.

He received awards from the Sidney Hillman Foundation and Sigma Delta Chi, the professional journalism society, which called his editorials "informative, persuasive and written in clean, clear English."

He was cited by the Washington Area Council of the American Veterans Committee, the District branch of the NAACP, the American Newspaper Guild, the Education Writers Association and Americans for Democratic Action.

In 1964, Mr. Barth was presented the first Oliver Wendell Holmes Bill of Rights Award of the National Capital Area Civil Liberties Union.

His awards came for his work in civil rights. But Mr. Barth wrote on other matters too. In 1961, he gave a first-hand account of what it was like when he and 105 other persons aboard a jet airliner had to circle Omaha airport for a lengthy period, preparing to make a crash landing because of a defective landing gear. The plane finally made it to the ground safely.

On another occasion, while walking his dog near his home in Washington, Mr. Barth witnessed a gun slaying. That too produced a first-hand account from him.

Mr. Barth had his light side, which appeared in a number of his signed columns that appeared on the page opposite The Post's editorial page.

"Something comes over the male animal on the day after Christmas," he wrote in 1967. "The spirit of giving gives way suddenly to the spirit of getting. He turns shopper, as every retail merchant, especially the haberdashers, know full well, and he becomes a bargain hunter with the relentless ferocity of a stag who has just harkened to a mating call."

One of his greatest pleasures was the softball team that he and lawyer Joseph Rauh, another civil liberties advocate and close friend, put together for the benefit of their sons. It soon attracted their own friends, and the Barth-Rauh game went on every Sunday afternoon for more than 25 years at the ballfield across the street from Mr. Barth's home in Washington. It was Mr. Barth's game.

He is survived by his wife, Adrienne, of Washington; a son, Andrew, of Columbia, Md.; a daughter, Flora Wolf of Philadelphia, and three grandchildren.

The family suggests that expressions of sympathy be in the form of contributions to the American Civil Liberties Union.●

TIM LEE CARTER

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. MAZZOLI. Mr. Speaker, Turkey Neck Bend on the Cumberland River in Monroe County, Ky., will regain the services of an American and a distinguished Kentuckian when my friend and colleague, TIM LEE CARTER leaves the House of Representatives after a long and productive career as Congressman from the Fifth District.

Although we sit on opposite sides of the aisle, TIM LEE has been my good friend since my arrival in this House in 1971. I shall miss his insight, his diligence and his friendship when he goes back home to Kentucky.

But, on a broader scale, all members

of the Kentucky delegation and every Member of the House will miss "Doc" CARTER.

He is a special man and a decent man and a constant gentleman. There are few to match him in the Congress.

When he announced his retirement, TIM LEE asked God to bless this House in which he has served so long and so effectively. Today, I ask God to bless TIM LEE and his lovely wife, Kathleen, so that they may enjoy many, many years of health and happiness surrounded by the green fields, the beautiful mountains and the rushing rivers of our beloved Kentucky.●

JUANITA M. KREPS

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. CORRADA. Mr. Speaker, recently President Carter accepted with regret the resignation of Juanita M. Kreps as Secretary of Commerce. Mrs. Kreps resigned for personal reasons.

As Mrs. Kreps returns to rejoin the world of academia at Duke University, she can, however, look back on a long string of accomplishments during her tenure as head of the Department of Commerce.

As the first woman Secretary of this complex agency, she performed her work with high distinction, with a true sense of professional competence in bringing a strong degree of mission to an agency which, in some manner, touches the lives of all of us through the wide variety of programs.

Her record in identifying and employing Hispanics was a sound one and she successfully identified many problems of concern to minorities in this Nation and focused the resources of her department to bear in solving them.

As a manager, as a visionary who saw the long-reaching effects of trade agreements with the growing market in China, Mrs. Kreps mark will long be felt in the agency she headed for 3 years.

We wish her well as she departs Washington.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, November 27, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 28

9:00 a.m.
Special on Aging
To hold hearings on adapting social security to a changing work force, focusing on current earnings limitation and the treatment of women under social security.
1224 Dirksen Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agriculture Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees
To hold joint hearings to examines the implications of grain sales to the Soviet Union on the U.S. transportation system.
457 Russell Building

Governmental Affairs
To hold oversight hearings on the activities of the Energy Information Administration, Department of Energy.
6226 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings on professional motor vehicle theft and the potential in it by organized crime.
3302 Dirksen Building

*Judiciary
Business meeting, to continue markup of S. 1722 and 1723, bills to reform the Federal criminal laws and streamline the administration of criminal justice.
2228 Dirksen Building

10:00 a.m.
*Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings to examine U.S. and East-West trade and technological competitiveness, focusing on S. 339, to provide identical requirements for determining the eligibility of any Communist state for "most favored nation" status and Export-Import Bank credits, and for reviewing and limiting such credits; S. Con. Res. 47, to approve the extension of nondiscriminatory treatment with respect to the products of China; and to review a report prepared by the Office of Technology and Assessment entitled "Technology and East-West Trade".
5302 Dirksen Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.
235 Russell Building

Environment and Public Works
Water Resources Subcommittee
Business meeting, to consider S. 1241, proposing certain changes in water resource policy.
4200 Dirksen Building

Rules and Administration
Business meeting, to mark up S. 2018 and S. Res. 281, measures to simplify and clarify the system by which Senate committees are provided funds for their operating expenses, including staff salaries; and to consider other legislative and administrative business.
301 Russell Building

Joint Economic
To hold hearings to examine the economic outlook for 1980 relative to the housing industry.
1318 Dirksen Building

NOVEMBER 29

8:00 a.m.
Agriculture, Nutrition, and Forestry
Rural Development Subcommittee
To hold oversight hearings on the implementation of rural housing programs relative to loan guarantees administered by the Farmers Home Administration and the Department of Housing and Urban Development.
324 Russell Building

9:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold oversight hearings on NASA's proposed reprograming of funds for Jupiter orbit mission (project Galileo).
1224 Dirksen Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Price and Foreign Agricultural Policy Subcommittees.
To continue joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.
457 Russell Building

*Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on Federal agencies spending practices that occur just prior to the end of the fiscal year, the "hurry-up spending problem."
3118 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings on professional motor vehicle theft and the potential in it by organized crime.
3302 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 3 and 1710, bills to provide procedures for Federal constitutional conventions for the purpose of proposing amendments.
318 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
Business meeting, to resume consideration of S. 703, to provide for the study, advanced engineering and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.
4200 Dirksen Building

Foreign Relations
To hold closed hearings on U.S. military assistance to Egypt.
S-116, Capitol

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meetings, to mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, National Endowment for the Humanities; and Institute of Museum Services; and S. 1429, authorizing funds through fiscal year 1982 for programs under the Museum Services Act.
4232 Dirksen Building

2:00 p.m.
Conferees
Closed on S. 673, authorizing funds for

fiscal years 1980 and 1981 for national security programs of the Department of Energy.
S-407, Capitol

Foreign Relations
Closed business meeting, to consider S. Con. Res. 51 and 52, resolutions rejecting the determination of the President, set forth in the report of the President transmitted to the Congress on November 14, 1979, that it is in the national interest of the U.S. to continue sanctions against Zimbabwe-Rhodesia.
S-116, Capitol

2:45 p.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To continue hearings on Federal agencies spending practices that occur just prior to the end of the fiscal year, the "hurry-up spending problem."
S-126, Capitol

3:00 p.m.
*Judiciary
To hold hearings on the nominations of Jose A. Cabranes, to be U.S. District Judge for the District of Connecticut; Robert J. McNichols, to be U.S. District Judge for the Eastern District of Washington; Horace T. Ward, to be U.S. District Judge for the Northern District of Georgia; David K. Winder, to be U.S. District Judge for the District of Utah; Juan M. Perez-Gimenez, to be U.S. District Judge for the District of Puerto Rico; and L. T. Senter, Jr., to be U.S. District Judge for the Northern District of Mississippi.
2228 Dirksen Building

NOVEMBER 30

8:00 a.m.
Agriculture, Nutrition, and Forestry
Rural Development Subcommittee
To continue oversight hearings on the implementation of rural housing programs, relative to home weatherization serving rural areas.
324 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the Federal Trade Commission's authority to order divestiture in certain antitrust proceedings.
235 Russell Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings on professional motor vehicle theft and the potential in it by organized crime.
3302 Dirksen Building

Judiciary
To hold hearings on S. 1679, to reduce delays and legal expenses in the issuance of patents.
2228 Dirksen Building

10:00 a.m.
Armed Services
Procurement Policy and Reprograming Subcommittee
To receive testimony on optional financial spending programs for the civil reserve airfleet of the Department of Defense.
224 Russell Building

Appropriations
Agriculture and Related Agencies Subcommittee
To hold oversight hearings on the activities of the Farmers Home Administration.
1318 Dirksen Building

DECEMBER 4

9:30 a.m.
Governmental Affairs
Permanent Investigations Subcommittee
To resume hearings on professional motor vehicle theft and the potential in it by organized crime.
3302 Dirksen Building

10:00 a.m.
*Select on Indian Affairs
To hold hearings on S. 341, 1795, and 1796, bills authorizing certain Indian tribes to file claims for damages for delay in payment for lands claimed to be taken in violation of U.S. laws.
5110 Dirksen Building

DECEMBER 5

9:00 a.m.
Commerce, Science, and Transportation
To hold joint oversight hearings with the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources to review implications for future Outer Continental Shelf leasing, relative to the oil spill at Campeche, Mexico.
3106 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation to review implications for future Outer Continental Shelf leasing, relative to the oil spill at Campeche, Mexico.
3106 Dirksen Building

Rules and Administration
Business meeting, to resume markup of S. 2018 and S. Res. 281, measures to simplify and clarify the system by which Senate committees are provided funds for their operating expenses, including staff salaries; and to consider other legislative and administrative business.
301 Russell Building

Select on Indian Affairs
Business meeting, to mark up S.J. Res. 108, to validate the effectiveness of certain plans for the use or distribution of funds to pay judgments awarded to Indian tribes; S. 1730, declaring that title to certain lands in New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe; S. 1832, authorizing the Secretary of the Interior to declare certain land to be Indian reservation land; and S. 1273, to restore Federal recognition to certain bands of Paiute Indians in the State of Utah.
6228 Dirksen Building

DECEMBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to insure equitable mortgage lending practices.
5302 Dirksen Building

DECEMBER 7

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to insure equitable mortgage lending practices.
5302 Dirksen Building

Joint Economic
To resume hearings on the employment-unemployment situation and price data information for November.
Room to be announced

DECEMBER 10

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1464, to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.
5110 Dirksen Building

DECEMBER 11

9:30 a.m.
Select on Small Business
To hold hearings on the structure of the solar energy industry.
424 Russell Building

10:00 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To receive testimony on the current price and supply situation for petroleum fuels.
3110 Dirksen Building

DECEMBER 12

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.
235 Russell Building

9:30 a.m.
Select on Small Business
To continue hearings on the structure of the solar energy industry.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

DECEMBER 14

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on the scope of laser research and technology, focusing on the principal applications of laser and future expectations from lasers.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

JANUARY 15, 1980

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings to examine U.S. trade and technological competitiveness with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.
5302 Dirksen Building

CANCELLATIONS

NOVEMBER 29

10:00 a.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

NOVEMBER 30

10:00 a.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building